

Code of Conduct—Trustees

October 2022



POLICY

A school board must establish a code of conduct that applies to trustees as per The Public Schools Act, Sections 35.1(1) and 35.1(2).

The position of school trustee is one of responsibility and trust, and individuals holding that position must conduct themselves accordingly. Therefore, in accordance with section 35.1 of The Public Schools Act, the school trustees of River East Transcona School Division:

- Will abide by the provisions of all federal, provincial, and local legislation, including but not limited to human rights statutes, The Public Schools Act, and River East Transcona School Division bylaws and policies.
- Recognize that the school board's authority rests with the corporate body, not with individual trustees, and therefore will speak or act on behalf of the school board only if they have been authorized to do so.
- Understand that their position may make them privy to confidential information about individuals including students or staff, or financial or other sensitive matters, and will keep any such information confidential.
- Strive to attend all regular and special meetings of the board and those committees on which they serve, and if unable to do so, advise the appropriate individuals of their pending absence.
- Review meeting agendas and other relevant information prior to board and committee meetings and arrive at such meetings informed and prepared to contribute to the open and honest discussion about matters before the board or committee.
- Listen respectfully and with an open mind to the full range of opinions on each matter before them, and make their decisions based on the merits of these varying opinions.
- Treat board colleagues, divisional and school staff, students and community members in a respectful and courteous manner, and refrain from using abusive or denigrating language in any dealings with them.
- Keep informed of the organization's history, goals, policies, public and current activities so they are better able to make effective decisions.
- Respect the decision of the majority as determined within the recognized mandate of the board of trustees, reserving the right to seek changes to these decisions in the future through ethical and constructive channels.
- Recognize that the responsibility of the board is to make policy and to give direction and that the day-to-day administration of River East Transcona School Division is the responsibility of the superintendent/CEO and staff.
- Refrain from expressing opinions and/or sharing information through social media that would discredit, undermine, or compromise the integrity of the board.

CONFLICT OF INTEREST

Refrain from using the position of trustee for personal gain or the pursuit of personal interest and avoid any situation(s) which might suggest a conflict of interest or the appearance of impropriety in the performance of responsibilities as a trustee.

Trustees must avoid conflict of interest with respect to their fiduciary responsibility:

- There will be no self-dealing or business by a member with the organization. Trustees will disclose their involvements with other organizations, with vendors, or any associations which might be, or might reasonably be seen as being, a conflict. No member of the board shall take part in the discussion of any questions in which they have a pecuniary interest beyond their interest as an ordinary ratepayer, nor shall they vote on the same. Refer to The Public Schools Act, Section 36 to 39.8 inclusive.
- When the board is to decide upon an issue, about which a trustee has an unavoidable conflict of interest, that trustee shall absent themselves without comment from not only the vote, but also from the deliberation.
- Trustees will not use their board position to obtain employment in the organization for themselves, family members, or close associates. A trustee shall absent themselves without comment from not only the vote, but also from the deliberation of employment pertaining to family members, close associates, or the trustee themselves. Should a trustee be successful in securing employment with River East Transcona School Division, they must resign from the board prior to start of employment.

EXTERNAL ORGANIZATION CLAUSE

The office of a school trustee is a position of trust, with incumbents accountable to all community members within the school division. In order to ensure that this primary responsibility is not compromised, nor their impartiality drawn into question:

- When an organization which includes among its membership a school trustee, official or otherwise, the board will not receive the trustee as part of the organization's delegation or when making a formal presentation.
- When an organization which includes among its membership a school trustee, makes a request of a school board, the trustee who is a member will be recused from any discussions or vote on the matter involving that organization.

PROCESS FOR ADDRESSING BREACHES OF THE CODE OF CONDUCT

AT THE BOARD TABLE

Any trustee perceiving another trustee to be in possible breach of the Code of Conduct shall have the right to move that the board of trustees resolve itself into committee of the whole in-camera on a point of privilege, during which the trustee shall raise the perceived breach with the full board for consideration. The board may choose, by motion, whether to include senior administration in the in-camera meeting.

OUTSIDE THE BOARD TABLE

Any trustee perceiving another trustee to be in possible breach of the Code of Conduct should first raise the concern with that member with the intent to resolve the concern. If the concern is not resolved, the trustee may proceed to inform the board chair, or if more appropriate, the board vice-chair, who will then act as conciliator. Failing resolution, at the request of either party, the board chair or the board vice-chair shall present the perceived breach to the full board for consideration at an in-camera session.

RESPONSE TO BREACH OF CODE OF CONDUCT

Wherein the opinion of the board a breach of the Code of Conduct has occurred, the board shall respond, as outlined in The Public Schools Act, Section 35.2, by taking such course of action which might include: a) A written reprimand from the board and/or; b) The removal from any position of appointment made by the board for such length of time as the board determines.

PROCEDURES IN EVENT OF POSSIBLE CONFLICT OF INTEREST

Any trustee perceiving another trustee to be in conflict of interest shall follow the conflict of interest guidelines as outlined in the provisions under The Public Schools Act. The board's response shall be in accordance with provisions under The Public Schools Act.

DISCLOSURE OF INFORMATION

Prior to taking the oath or affirmation of office, every trustee of a school division or school district shall file with the secretary-treasurer of the school division or school district a statement disclosing assets and interest (reference Section 39.3, The Public Schools Act), a declaration of residence (BBBA-E), and pledge of confidentiality (GBJA-E).

Trustees are subject to the provisions of the PSA, Sections 36 to 39 inclusive, which govern board member conduct with reference to certain contracts, transactions, personnel decisions, and disclosures, all as particularly set forth in the law.

ENFORCEMENT OF THE CODE OF CONDUCT

1. IDENTIFYING A BREACH OF THE CODE

A trustee, employee, or member of the public who has reasonable grounds to believe that a trustee of the board has breached the board's Code of Conduct may bring the alleged breach to the attention of the board. This is done through the board chair.

Any allegation of a breach of the Code must be brought to the attention of the board chair no later than four weeks after the breach comes to the knowledge of the trustee reporting the breach. In no circumstances shall an inquiry into a breach of the Code be undertaken after the expiration of six months from the time the contravention is alleged to have occurred.

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 process. It is recognized from time to time a contravention of the Code may occur that is trivial, or committed through inadvertence, or an error of judgement 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 is to assist the trustee in understanding their obligations under the Code.

Only serious and/or recurring breaches of the Code by a trustee should be investigated following the formal complaint procedure.

2. CHAIR/PRESIDING OFFICER

The Code of Conduct applies equally to the board chair. 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.

The board 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.

3. INFORMAL COMPLAINT PROCEDURE

The board chair, on their own initiative or at the request of a trustee of the board (without the necessity of providing a formal written complaint), may review the complaint and may, along with a designate, meet informally with a trustee of the board 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 behavior. The informal complaint procedure is conducted in private.

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 Manitoba School Boards Association.

If the board and the trustee alleged to have breached this Code cannot agree on a remedy, or if the agreed upon remedy is not carried out in an agreed upon timeframe, then a formal complaint will be brought against the trustee alleged to have breached this Code and that complaint will be dealt with through sanctions provided in The Public Schools Act.

4. FORMAL COMPLAINT PROCEDURE

A trustee, employee, or member of the public who has reasonable grounds to believe that a trustee of the board has breached the board's Code of Conduct may bring the breach to the attention of the board by providing to the board chair:

- Name of respondent(s)
- Specific details of the alleged incident(s), such as dates, times, specific statements, and details regarding the sequences of the disrespectful behaviours and actions
- Specific offense taken and/or injury incurred resulting from the disrespectful behaviour
- Witnesses other than the complainant to the disrespectful behaviour
- Corrective action the complainant would like to see implemented in order to resolve the complaint and make them whole and satisfied

The board chair shall share with all trustees of the board an oral report of the complaint within 15 business days of receiving it. The complaint, any response to the complaint, and the investigation of the complaint shall be confidential until it is determined whether or not the trustee has breached this Code and a resolution is brought forward.

The investigation procedure will follow the process outlined in policy BC-R.

5. REFUSAL TO CONDUCT INQUIRY

If the chair or vice-chair, in consultation with the secretary-treasurer, is of the opinion that the breach is out of time, trivial, frivolous, vexatious, or not made in good faith, or that there are no grounds or insufficient grounds for an inquiry, an inquiry shall not be conducted and a note shall be made in the records stating the date, section of the code discussed, and those present.

6. STEPS OF INQUIRY

Procedural fairness and the rules of natural justice shall govern the formal inquiry, which will be conducted in private. The formal inquiry may involve statements by any witnesses, the trustee, employee, or member of the public bringing the complaint, and the trustee who is alleged to have breached the Code of Conduct.

If a statement is made in writing, the person making the statement should be informed that this may be subject to FIPPA.

The trustee who is alleged to have breached the Code of Conduct shall have an opportunity to respond to the allegations in a private meeting with the person(s) undertaking the inquiry. The trustee may also respond in writing but should be informed that any written reports or statements may be subject to FIPPA.

If the accused trustee refuses to participate in the formal inquiry, the formal inquiry will continue in their absence.

7. SUSPENSION OF INQUIRY

If the investigator, when conducting the formal inquiry, discovers 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 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.

8. DECISION

The final report containing the recommendations going forward or dismissing all points 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. No trustee shall undertake their own investigation of the matter.

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.

The trustee who is alleged to have breached the Code of Conduct may be present and can participate in deliberations but will not attempt to intimidate other trustees or the committee. The trustee who is alleged to have breached the Code of Conduct shall not in any way, after the final report is completed, attempt to intimidate the vote on the decision of breach or sanction, except as permitted below after these decisions have been made.

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 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. Both resolutions shall be decided by a vote of at least two-thirds of the total number of trustees allotted for the division.

In accordance with Subsection 35.2 (2) of The Public Schools Act, the motion may be debated at a board meeting that is closed to the public but must be voted on in public.

Whether the complaint is found to be valid or unfounded, a record of the decision, any action taken, and all written documentation of the complaint shall be maintained in confidence by the secretary-treasurer.

9. SANCTIONS

If the board determines that the trustee has breached the board's Code of Conduct, the board will take action. The board may choose to impose remedies as outlined in the informal complaint procedure above, or may impose one or more of the following sanctions as stated in Subsection 35.2(1) of The Public Schools Act:

- Censuring the trustee
- Barring the trustee from attending all or part of a meeting of the school board or a committee of the school board
- Suspending the trustee from the school board, including suspending all the trustee's rights, duties, and privileges as a member of the school board, for up to three months

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 at the expense of the board. The board has no power to declare the trustee's seat vacant.

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.

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 Public Schools Act regarding absences from meetings as stated in Subsection 35.2(3).

10. APPEAL TO ADJUDICATOR

As stated in Subsection 35.3(1) of The Public Schools Act, in accordance with the regulations, a trustee who is sanctioned under Item 2 or 3 of Subsection 35.2(1) may appeal to a single adjudicator appointed by the minister.

In accordance with Subsection 35.3(2) of The Public Schools Act, a trustee who wishes to appeal a sanction must provide written notice to the minister within 10 days of the day the sanction was imposed.

As stated in Subsection 35.3(3) of The Public Schools Act, an adjudicator who hears an appeal under this section may vary or set aside the sanction imposed on a trustee, as the adjudicator sees fit.

In accordance with Subsection 35.3(4) of The Public Schools Act, the costs of an adjudication must be paid by the school division. If authorized by the adjudicator, the school division may recover some or all of the costs from the trustee.

In accordance with The Public Schools Act, Trustee Code of Conduct, Appeal Regulation 114/2015, the final determination of the adjudicator will be provided to both parties.