



# **Policy: Board Member - Code of Conduct**

## **Policy Number: BF**

### **Policy Type: School Board Governance & Operations**

#### **Background:**

The Hanover School Division Board of Trustees recognizes the commitment required of each trustee to ethical, businesslike, and lawful conduct when carrying out the power and responsibilities of a school board as outlined in the Public Schools Act (CCSM cP. 250)

#### **Policy:**

##### **A. School Trustee Code of Conduct**

The position of school trustee is one of responsibility and trust, and individuals holding that position must conduct themselves accordingly. Therefore, the trustees of Hanover School Division will abide by the provisions of all federal, provincial and local legislation, including but not limited to human rights statutes, and The Public Schools Act, as well as school division by-laws and policies and will:

- 1) Recognize that the School Board's authority rests with the corporate body, and may not attempt to exercise individual authority over the organization,
  - a) Trustee's interaction with the Superintendent or with staff must recognize the lack of authority vested as individuals except when explicitly Board authorized.
  - b) Trustees' interaction with public, media or other entities must recognize the same limitation and the inability of an individual trustee to speak for the Board except to repeat explicitly stated Board decisions.
  - c) Except for participation in Board deliberation about whether the Superintendent has achieved a reasonable interpretation of Board policy, trustees will not express individual judgements of performance of employees or the Superintendent.
- 2) Support the legitimacy and authority of Board decisions, irrespective of the trustee's personal position on the issue. No question once decided shall be reversed without notice from at least one meeting to another. No question shall be reversed without a two-third majority voting for the reversal.
- 3) 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 and not use it for either personal gain or to the detriment of the Board;
- 4) 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 designated individuals of their pending absence;
- 5) 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;
- 6) 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; and

- a) 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.
- b) Refrain from expressing opinions and/or sharing information through social media that would discredit, undermine or compromise the integrity of the Board.
- c) Refrain from accepting a gift from any person or entity that has dealings with the Board if it could be perceived that the gift could influence the Trustee when performing his or her duties to the Board. Exchanges of gifts and tokens shall be permitted in association with cultural ceremonies and customary traditions.

## **B. Pecuniary Interest**

The provisions of Sections 37, 38 and 39 of the Public Schools Act, Province of Manitoba, shall govern the fiduciary responsibilities of the Board.

## **C. Relationship Bias**

It is recognized that the Trustees elected to serve Hanover School Division are often involved in a variety of activities in their community and may have family, relations and friends working for the school division. It is further recognized that trustees often make decisions that affect large numbers of people in the communities served by the School Division and will have knowledge of a wide range of confidential information. Regardless, Trustees are always expected to place the public interest first in carrying out their duties. Part of protecting the public interest involves avoiding or effectively resolving relationship bias situations where private or personal interests influence or may appear to influence the performance of their duties and responsibilities.

Trustees shall act at all times in the best interests of Hanover School Division as a whole, fulfilling their responsibilities and obligations as elected public officials in a fashion that inspires confidence and trust in the integrity, objectivity and impartiality of the school board.

### 1) Definition

A relationship bias exists when an individual trustee's personal interests, or those of family members, business partners, or close personal associates, financial or otherwise, interfere with or compromise the trustee's ability to act in the best interests of the school division and the constituents whom it serves. Such relationship bias may be real or perceived. In addition to the provisions of the Public Schools Act concerning monetary conflicts of interest, trustees are also considered to have a relationship bias in these circumstances:

- a) When they, their dependents, business partners or close personal associates may benefit financially or professionally, either directly or indirectly, from the trustee's position on the Board;
- b) When circumstances arise that compromise, or appear to compromise, independence and impartiality to make fair and unbiased decisions. (i.e. employment or professional status, political affiliations, community affiliation that may conflict with trustee responsibilities);
- c) When they appropriate divisional financial or other resources for personal use (i.e. information, equipment, supplies); and
- d) When they are involved in staffing and student issues involving dependents, business associates or personal friends (i.e.: contracting for services, hirings, promotions, evaluations, disciplinary actions).

Sec. 36(1) of the Public Schools Act defines a dependent as (a) the spouse or common-law partner of a trustee, and (b) any child, natural or adopted, of the trustee who resides with the trustee.

## 2) Disclosure

A trustee must openly disclose a real or perceived relationship bias as soon as the issue arises and before the Board or its committees deal with the matter.

Where uncertain about whether or not the issue constitutes a relationship bias, the trustee may consult with the Board Chair or the Secretary-Treasurer for advice and guidance.

Where any trustee is aware of a real or perceived relationship bias not declared by any other trustee, he/she has a responsibility to raise the issue of clarification with the individual, and if unresolved, then with the Board.

Full disclosure does not remove or eliminate a relationship bias.

## 3) Decision-Making Process

Where there is question or uncertainty about a relationship bias, the Board by vote shall make a final determination.

Where a relationship bias is declared/confirmed, the trustee so affected will be absent from any discussion of the issue and vote upon it. Further, the trustee shall not attempt to personally influence the Board's decision in regard to the issue.

Relationship bias disclosures and decisions shall be duly recorded by the Secretary-Treasurer in the official minutes of the meeting at which such disclosure/decision occurred.

## 4) External Organization Clause

The office of school trustee is a position of trust, with board members accountable to all community members within the school division. The board will ensure that this primary responsibility is not compromised, nor their members' impartiality drawn into question. If a trustee is also a member, officiant or otherwise of an organization that may have like interests to those of the school division:

- a) 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.
- b) 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.

### **D. 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 interests (Reference Section 39.3, Public School Act).

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.

### **E. Use of Division Property**

Division property, including vehicles, equipment and material, shall be used primarily for the purpose of carrying out Division business.

The Superintendent/CEO or designate may authorize the use of supplies or equipment if he/she feels that such use will assist Board members in their assigned work for the school division. It may be required that some staff and Trustees regularly retain district-owned supplies or equipment in their possession.

A written record of the authorization of the use of supplies or equipment shall be maintained indicating the time of release, the signature of the user, and the date on which the item is returned.

Trustees are responsible for exercising all reasonable care to prevent abuse to, excessive wear of, or loss of district-owned equipment or material entrusted to their care.

While actively campaigning for election:

- a) use of any Division-owned resources may not be used other than to carry out Division related business.
- b) Use of Division trademarks and logos are not permitted in campaign material
- c) Use of trustee divisional email accounts are not permitted in campaign correspondence or advertising

## **F. Enforcement of the Code of Conduct**

### **1) Identifying a Breach of the Code**

A Trustee 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 Chair of the Board.

- a) Any allegation of a breach of the Code must be brought to the attention of the Chair no later than four (4) weeks after the breach comes to the knowledge of the Trustee reporting the breach. 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.
- b) 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.
- c) 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 that from time to time a contravention of the Code 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 is to assist the Trustee in understanding his/her 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 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.

The Chair of the Board 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 Chair of the Board on his/her 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 behaviour. 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 Chair of 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 either through the Formal Complaint Procedure below or through sanctions provided in the Public Schools Act

#### 4) Formal Complaint Procedure

A Trustee who has reasonable grounds to believe that another Trustee of the Board has breached the Board's Code of Conduct may bring the breach to the attention of the Board by first providing to the Chair of the Board 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 when the alleged breach occurred;
- c) Information as to when the alleged breach came to the Trustee's attention;
- d) The grounds for the belief of 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 who have relevant information regarding the alleged breach.

The Chair of the Board shall provide to all Trustee of the board a confidential copy of the complaint within fifteen (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 before the Board of Trustees Code of Conduct Committee for a decision as to whether or not the Trustee has breached this Code and a resolution is brought forward.

The Chair shall appoint a Committee of three (3) consisting of the Chair and two (2) other Trustees - one selected by the trustee alleged to have breached the code and one selected by the trustee alleging the breach of the code, invited by the chair.

#### 5) Refusal to Conduct Inquiry

If the Code of Conduct Committee 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 confidential report stating the reasons for not doing so shall be provided to all Trustees of the Board.

#### 6) Steps of Inquiry

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

The Inquiry will ensure following:

- a) 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.
- b) 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 inquiry and in writing.

- c) Once the formal inquiry is complete, the investigators 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. These two Trustees shall have fifteen (15) business 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.
- d) If the accused Trustee refuses to participate in the formal inquiry, the formal inquiry will continue in his/her absence.

## 7) Suspension of Inquiry

If the Code of Conduct Committee, 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 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 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 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.

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.

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 (2/3rd) of the entire Board.

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:

- a) Censuring the trustee.

- b) Barring the trustee from attending all or part of a meeting of the school board or a committee of the school board.
- c) 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 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 authorisation 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 subsections 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, the final determination of the Adjudicator will be provided to both parties.

Date Policy Created:	December 10, 1996
Date of last Review:	December 6, 2022
Reference(s):	<ul style="list-style-type: none"> <li>● The Public Schools Act <ul style="list-style-type: none"> <li>○ Part 7 - Section 35 – Trustee Code of Conduct</li> <li>○ Part 7 - Section 36 – Conflict of Interest</li> </ul> </li> <li>● HSD Administrative Procedures <ul style="list-style-type: none"> <li>○ P-BCA – Conflict of Interest Procedure</li> </ul> </li> <li>● HSD Policy Manual <ul style="list-style-type: none"> <li>○ BC – Commercial or Personal Interests of Board Members</li> </ul> </li> </ul>
Related Forms:	