

Policy 4 - Appendix - Conduct Breaches by a Trustee

Each trustee owes an ethical and fiduciary duty to the Board.

Specifically

1. A trustee who believes that a fellow trustee has breached their ethical and/or fiduciary duty to the Board may seek resolution of the matter through appropriate conciliatory measures prior to commencing an official complaint under Policy 4 - Code of Conduct.
2. A trustee who wishes to commence an official complaint under the above policy shall file a letter of complaint indicating the nature of the complaint and the element or elements of ethical and/or fiduciary duty that are alleged to have been breached. The letter shall be filed with the Chair or with the Vice Chair if the complaint is regarding the Chair. The trustee who is alleged to have breached their ethical and/or fiduciary duty, and all other trustees, shall be forwarded a copy of the letter of complaint within five (5) business days of the filing of the letter of complaint. If the complaint is regarding the Chair then the Vice Chair will assume the responsibilities of the Chair in what follows.
3. When a trustee files a letter of complaint, and a copy of that letter of complaint is forwarded to all trustees, the filing, notification, content, and nature of the complaint shall be deemed to be strictly confidential. Public disclosure of the complaint and any resulting decision taken by the Board may be made by the Chair only at the direction of the Board, following the disposition of the complaint by the Board.
4. To ensure that the complaint has merit to be considered and reviewed, at least one other trustee of the Board must provide to the Chair within three (3) business days of the notice in writing of the complaint being forwarded to all trustees, a letter indicating support for having the complaint heard at a hearing. Any trustee who forwards such a letter of support shall not be disqualified from attending at and deliberating upon the complaint at a hearing convened to hear the matter, solely for having issued such a letter.
5. Where no letter supporting a hearing is forthcoming, the complaint shall not be heard. The Chair shall notify all other trustees in writing that no further action of the Board shall occur.
6. Where a letter supporting a hearing is forthcoming, the Chair shall convene as soon as is reasonable, at an official regular or special meeting of the Board, an in-camera session to hear the complaint.
7. At the official meeting of the Board, before the in-camera session to hear the complaint, the Chair shall indicate the nature of the business to be transacted. Without limiting what follows, the Chair shall ensure fairness in dealing with the complaint by adhering to the hearing procedures specified in Section 10.
8. If the Board finds after hearing the complaint that a trustee has breached their ethical and/or fiduciary duty to the Board, the Board may institute, without limiting what follows, any or all of the following sanctions:

- 8.1. Have a motion directing the Chair to write a letter of censure marked “personal and confidential” to the offending trustee, passed by a majority of those trustees present at the hearing;
 - 8.2. Have a motion of censure passed by a majority of those trustees present at the hearing;
 - 8.3. Have a motion to remove the offending trustee from one, some, or all Board committees or other appointments of the Board, passed by a majority of those trustees present at the hearing.
9. The Board may, in its discretion, make public its findings regarding the complaint, where the Board has not upheld the complaint or, where there has been a withdrawal of the complaint or, under any other circumstances that the Board deems reasonable and appropriate to indicate publicly its disposition of the complaint.
10. Hearing Procedures
 - 10.1. The hearing of a complaint of breach of ethical and/or fiduciary duty shall be conducted at an in-camera session at an official regular or special meeting of the Board. The Board, in its sole discretion, may record the in-camera session by electronic means. Where recording will take place, the complaining trustee and the respondent trustee shall be advised by the presiding Chair at the commencement of the hearing. All preliminary matters, including whether one or more trustees may have a conflict of interest in hearing the complaint, shall be dealt with prior to the presentation of the complaint by the complaining trustee.
 - 10.2. The sequence of the hearing shall be:
 - 10.2.1 The complaining trustee shall provide a presentation which may be written or oral or both;
 - 10.2.2 The respondent trustee shall provide a presentation which may be written or oral or both;
 - 10.2.3 The complaining trustee shall then be given an opportunity to reply to the respondent trustee’s presentation;
 - 10.2.4 The respondent trustee shall then be provided a further opportunity to respond to the complaining trustee’s presentation and subsequent remarks;
 - 10.2.5 The remaining trustees of the Board shall be given the opportunity to ask questions of both parties;
 - 10.2.6 The complaining trustee shall be given the opportunity to make final comments; and
 - 10.2.7 The respondent trustee shall be given the opportunity to make final comments.
 - 10.3. Following the presentation of the respective positions of the parties, the parties, and all persons other than the remaining trustees who do not have a conflict of interest, shall be required to leave the room, and the remaining trustees shall deliberate in private, without assistance from administration. The Board may,

however, in its discretion, call upon administration and/or legal advisors to assist them on points of law, or the drafting of a possible motion.

- 10.4. If the remaining trustees in deliberation require further information or clarification, the parties shall be reconvened and the requests made in the presence of both parties. If the information is not readily available, the presiding Chair may request a recess, or if necessary, adjournment of the hearing to a later date.
- 10.5. In the case of an adjournment, no discussion by trustees whatsoever of the matters heard at the hearing may take place until the hearing is reconvened.
- 10.6. The remaining trustees in deliberation may draft a motion indicating what action, if any, may be taken regarding the complaint.
- 10.7. The presiding Chair shall reconvene the parties to the hearing and request a motion to revert to the open meeting, in order to pass the motion.
- 10.8. All documentation, including any recording by electronic means, that is related to the hearing shall be returned to the Superintendent immediately upon conclusion of the hearing and shall be retained in accordance with legal requirements.

Reference: Section 33, 34, 51, 52 53, 64, 67, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96 Education Act

Effective: September 23, 2009

Amended: November 10, 2020