



## **BGK – Trustee Code of Conduct - Protocol**

### **As per Policy BGK**

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.

### **BGK-P Protocol**

#### **Trustee Code of Conduct, the school trustees of the Portage la Prairie 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, Public Health mandates, as well as school division by-laws and policies;
- Recognize that the School Board’s authority rests with the corporate body, not with individual trustees, and therefore trustees will not speak or act on behalf of the School Board only if they have been authorized to do so;
- Uphold the implementation of any Board resolution after it is passed by the Board. A proper motion for reversal may be brought by a Trustee;
- 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;
- Prioritize and accept responsibility 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;
- 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

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- 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;
- Refrain from expressing opinions and/or sharing information through social media that would discredit, undermine or compromise the integrity of the Board;
- 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.

**Procedures**

**Pecuniary Interest**

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

**Relationship Bias or Apprehension of Bias**

The Portage la Prairie School Division expects its members to be alert to situations that have the appearance of a bias and to avoid actions that might be detrimental to themselves or to the Board. Trustees shall familiarize themselves with provisions for Codes of Conduct, Section 35 under The Public Schools Act, its regulations and any guidelines approved by the Board and be responsible for fulfilling any obligation therein.

It is recognized that the Trustees elected to serve the Portage la Prairie 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 Portage la Prairie School Division and will have knowledge of a wide range of confidential information.

Regardless, the 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.

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Trustees shall always act in the best interests of the Portage la Prairie 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 they serve. 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:

- 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.
- 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).
- When they appropriate divisional financial or other resources for personal use. (i.e. information, equipment, supplies).
- When they are involved in staffing and student issues involving dependents, business associates or personal friends (i.e. contracting for services, hiring, promotions, evaluations, disciplinary actions).

Section 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.

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- Where any trustee is aware of a real or perceived relationship bias not declared by any other trustee, they have 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 a question or uncertainty about a relationship bias, the Board by vote shall make a final determination.
- The trustee so affected will be present during the discussion of the issue but will not vote upon it. The trustee shall not attempt to personally intimidate the Board’s decision in regard to the issue.
- If a relationship bias is declared a trustee will recuse themselves from any discussion and voting related to the relationship bias. This shall be duly recorded in the official minutes of the meeting.

### Use of Division Property

- Division property, including vehicles, equipment and material, shall be used primarily for carrying out Division business.
- The Superintendent/CEO or Secretary-Treasurer may authorize the use of supplies or equipment if he/she feel 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, use of any Division-owned resources:

- May not be used other than to carry out Division related business
- Use of Division trademarks and logos are not permitted in campaign material
- Use of trustee divisional email accounts are not permitted in campaign correspondence or advertising

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## 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:

- 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.

### 1. 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.

### 2. Complaint Procedure

- A trustee, employee or member of the public who has reasonable grounds to believe that 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.
- 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 circumstances shall an inquiry into a breach of the Code be undertaken after the expiration of six (6) months from when the contravention is alleged to have occurred.
- Whenever possible, allegations of a breach of the Code of Conduct by a Trustee shall be dealt with by steps that will cause the least interruption to board work and shall be appropriate with the seriousness of the breach. 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 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 their obligations under the Code.

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- Only serious and/or recurring breaches of the Code by a Trustee should be dealt with by going to the full board and moving directly to sanctions within the *Public Schools Act*.
- The Chair of the Board 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 in private and informally with the trustee who is alleged to have breached the Code. The trustee alleged to be in breach may also bring an advocate to the meeting.
- The purpose of the meeting is to bring the allegation of the breach to the attention of the Trustee and to determine if remedial measures or corrective action are appropriate and will prevent future breaches.
- The Chair will keep notes consisting only of the date of the meeting, names of those present, the number of the Section of the Code being discussed, for example, Section 1, point 6 and reference to the agreed actions and dates for completion.
- If the Chair considers the breach serious enough, the Chair may decide to bring the allegation before the full board and without meeting with the trustee first. The board may decide that remedial measures or sanctions less than those in the *Public Schools Act*, are not rigorous enough and may move directly to impose a sanction from the *Public Schools Act*.
- The remedial measures may include, for example, a verbal warning, a reprimand written into the public minutes, an apology, that the trustee in breach may not hold the position of chair for the board or a committee for a specified period, 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 remedial measures, or if the agreed upon actions are 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.
- A trustee, employee or member of the public who has reasonable grounds to believe that a Trustee has breached the Board’s Code of Conduct may bring the breach to the attention of the Board by providing to the Chair of the Board:
  - The name of the Trustee who is alleged to have breached the Code;
  - The alleged breach or breaches of the Code;
  - When the alleged breach occurred;
  - Information as to when the alleged breach came to the person’s attention;
  - The grounds for the Trustee’s belief that a breach of the Code has occurred; and

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- The names and contact information of any witnesses to the breach or any other persons who have relevant information regarding the alleged breach.
- The above information may be provided orally. If in writing, the person should be advised that any written details may be subject to FIPPA.

If the Chair decides an informal meeting with the trustee in breach and using remedial measures is not appropriate,

- The Chair may share with the Board an oral report 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.
- The Board may appoint an ad hoc committee of three (3) Trustees – one selected by the trustee alleged to have breached the code, to review the complaint and bring a recommendation to the full board.

### 3. Refusal to Conduct Inquiry

If the Board or ad hoc 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 this shall be recorded in the minutes of the next meeting.

### 4. Steps of Inquiry

- Procedural fairness and the rules of natural justice shall govern debate at a Committee of the Whole for trustees only. A formal inquiry may involve oral statements by trustees or written statements provided 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 it 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 the Committee of the Whole 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 any inquiry or debate at the Committee of the Whole, the process will continue in their absence.

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**5. Suspension of Inquiry**

If the Board or ad hoc committee, when conducting the inquiry, discover that the subject matter of the 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 communicated to the complainant.

**6. Decision**

- A decision by the Board as to whether or not the Code of Conduct has been breached and the sanction, if any, shall be made as soon as practical.
- Trustees shall consider only the findings presented 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. If it is a trustee who brought the complaint to the attention of the Board, that trustee 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 attempt to intimidate 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 must be done by resolution of the Board. The vote on the resolution shall be at a public meeting. The resolutions shall be recorded in the minutes of the meeting.
- The resolution to sanction by public censure is a majority vote. The motion to sanction by barring or suspending a trustee shall be decided by a vote of at least two thirds (2/3) of the total number of trustees allotted to the division.

**7. Sanctions**

- If the Board determines that the trustee has breached the Trustee Code of Conduct, the Board will take action. The Board may choose to impose a remedial measure 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;

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- 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 those in the Public Schools Act.
- The Board has no power to declare the trustee’s seat vacant if imposing a 3-month suspension. The suspension is viewed as a void, and attendance at regular meetings recommences at the time of reinstatement.
- 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 authorized 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).

**8. 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.
- The trustee and the school board will abide by the procedures for appeal as provided in The Public Schools Act, Section 35.
- 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.

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