



Title	Breaches of the Code of Conduct
Adopted:	October 2024
Related:	GOV 005 Trustees Code of Conduct
Authorization:	Ontario Education Act Sec 218.3 Regulation 306/24: Integrity Commissioners and the Process for Alleged Breaches of the Code of Conduct

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## **PURPOSE**

The purpose of this procedure is to outline the steps to be followed by the Bloorview School Authority (the Authority) Board should a member believe that there has been a breach of the code of conduct.

## **BACKGROUND**

1. Section 218.3 of the *Ontario Education Act* outlines the requirements for the enforcement of the Code of Conduct for Board members.
2. Regulation 306/24 under the *Ontario Education Act* describe the of Integrity Commissioners and the processes to be followed for alleged breaches of the code of conduct.

## **PROCEDURES**

1. A member of a board who has reasonable grounds to believe that a member of the board has breached the board's code of conduct may notify the following persons in writing of the alleged breach:
  - the vice Chair, if the notice relates to the conduct of the Chair
  - another member of the Board who is neither the complainant nor the subject of the complaint, if the notice relates to both the Chair and the Vice Chair
  - In all other situations, the board chair.
  - in all situations, a notice must also be given to the Director of Education/Supervisory Officer
2. A member of a board who gives a notification of an alleged breach of the code of conduct shall provide a copy of the notification to the Director of Education/Supervisory Officer. Such notification alleging a breach of the code of conduct shall include:
  - the name and contact information of the member alleging the breach;
  - the name and contact information of the member whose conduct is the subject of the notification;

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- the date(s) of the alleged breach;
  - a description of the alleged breach; and
  - the provision of the code of conduct that was allegedly breached.
3. If notification of an alleged breach is given, the person to whom the notification was made shall immediately provide a copy of the written notice to the member whose conduct is the subject of the alleged breach and to the entire board.
  4. If the matter is not resolved within 10 days after the member received the notice or within such other time period as may be prescribed by regulation, refer the matter to an Integrity Commissioner appointed by the board.
  5. The matter must be referred to the Integrity Commissioner within 60 days after it has been determined that there has not been a resolution to the matter.
  6. A person is qualified to be appointed by an English-language public board as an Integrity Commissioner if,
    - the person has a total of at least three year's experience working as an Integrity Commissioner, a judicial or quasi-judicial adjudicator, an investigator or in a similar role in a legal context;
    - in working in the role or roles mentioned above, the person applied professional ethics rules and the principles of natural justice and fairness; and
    - the person demonstrates understanding of the rights set out in section 23 of the *Canadian Charter of Rights and Freedoms* and section 93 of the *Constitution Act, 1867*.
  7. The Minister of Education (the Minister) has created a roster of Integrity Commissioners. The Integrity Commissioner to whom the matter has been referred must be chosen from the roster that the Minister has prepared.
  8. The Authority must pay all fees charged by an Integrity Commissioner.
  9. The Integrity Commissioner appointed by a board shall commence an investigation into the alleged breach of the Board's code of conduct no later than 14 days after being appointed, or within such other time period as may be prescribed by regulation, and shall provide the member with the opportunity to respond to the allegations, as well as a right of reply, where appropriate.
  10. A breach is discovered on the earlier of,
    - (a) the day on which the member notifying the board first knew that the breach had occurred;or

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- (b) the day on which a reasonable person with the abilities and in the circumstances of the member notifying the board first ought to have known of the matters referred to in clause (a).
11. If a breach relates to a series of incidents, the 60-day period in section 8 runs from the day the last incident in the series occurred or was discovered.
  12. An Integrity Commissioner may refuse to commence an investigation into an alleged breach if,
    - (a) the complaint was made more than 60 days after the day the alleged breach occurred or was discovered, whichever is later, unless the Integrity Commissioner is satisfied the delay was incurred in good faith and no substantial prejudice will result to any person affected by the delay; or
    - (b) in the opinion of the Integrity Commissioner, the complaint is made in bad faith or is frivolous or vexatious.
  13. The Integrity Commissioner shall provide written notice of a refusal to commence an investigation to the member who is the subject of the complaint and to the Board.
  14. A decision of an Integrity Commissioner to refuse to conduct an investigation is final.
  15. In the course of conducting the investigation, the Integrity Commissioner may,
    - (a) require the production of any records that may in any way relate to the investigation;
    - (b) examine and copy any records required under clause (a); and
    - (c) require any officer of the Authority or any other person to appear before the commissioner and give evidence, on oath or affirmation, relating to the investigation.
  16. Section 33 of the *Public Inquiries Act, 2009* applies to an investigation.
  17. The member of the Board who has been the subject of the investigation and report shall be given the opportunity to respond in an appropriate and fair manner.
  18. The Integrity Commissioner shall make a determination with respect to a complaint of an alleged breach no later than 90 days after commencing the investigation, or within such other time period as may be prescribed by regulation, unless the Integrity Commissioner notifies the board and the member who is the subject of the complaint that an extension is necessary and of the reasons for the extension.
  19. If the Integrity Commissioner determines, following an investigation, that the member has breached the Board's code of conduct, the Integrity Commissioner may impose one or more of the following sanctions:
    - a. Censure of the member.
    - b. Barring the member from attending all or part of one or more meetings of the Board or one or more meetings of a committee of the Board, for the period of time specified by the

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Integrity Commissioner up to a maximum of 90 days or the balance of the member's term of office, whichever is less.

- c. Barring the member from sitting on one or more committees of the Board, for the period of time specified by the Integrity Commissioner, up to a maximum of 90 days or the balance of the member's term of office, whichever is less.
  - d. Barring the member from becoming the chair or vice-chair of the Board or of any committee of the board, or removing the member from any of those positions.
  - e. Barring the member from exercising the privileges of a Board member or acting as an Authority representative, or removing the member from a position the member holds as an Authority representative.
  - f. Any other sanction that, in the opinion of the Integrity Commissioner, is reasonable and appropriate in the circumstances as long as those sanctions are not more restrictive than those described in parts (a) to (e) above.
  - g. Any other sanction that, in the opinion of the Integrity Commissioner, would promote compliance with the Board's code of conduct as long as those sanctions are not more restrictive than those described in parts (a) to (e) above.
20. For greater certainty, the imposition of a sanction under section 21 (b) barring a member from attending all or part of one meeting of the Board shall be deemed, for the purpose of Section 228 (1) (b) of the *Ontario Education Act*, to be authorization for the member to be absent from the meeting.
21. A member who is barred from attending all or part of a meeting of the Board or a meeting of a committee of the board under Section 21 above 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.
22. The Integrity Commissioner shall provide the member whose conduct was the subject of the complaint and the Board, written notice of a determination that the member has or has not breached the Board's code of conduct and of any sanctions imposed.
23. The written notice required under section 24 must include,
- the reasons for the determination;
  - the reasons for any sanctions; and
  - information about the right to appeal under section 218.3 of the *Ontario Education Act*.
24. Either the Board or the member whose conduct was the subject of the Integrity Commissioner's determination may appeal the determination, the sanctions imposed, or both, and the Board and the member are the parties to such an appeal.

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25. The member whose conduct was the subject of the Integrity Commissioner's determination shall not vote on a Board resolution to determine whether the Board will appeal that determination.
26. The Board or the member who appeals the Integrity Commissioner's determination shall give written notice of the appeal to the other party and the Deputy Minister no later than 14 business days after receiving written notice of the Integrity Commissioner's determination, or within such other time period as may be prescribed by regulation.
27. The appeal shall be heard by a panel of three Integrity Commissioners appointed by the Deputy Minister the Deputy Minister's delegate, but the panel shall not include the Integrity Commissioner whose determination is the subject of the appeal.
28. The panel of three Integrity Commissioners shall be appointed no later than 15 business days after the Deputy Minister or their delegate receives the notice of appeal.
29. The members of the panel shall be appointed from the roster of commissioners created by the Minister.
30. One of the Integrity Commissioners appointed to the panel shall be named by the panel to act as chair and co-ordinate the hearing of the appeal.
31. The chair of the panel shall notify the parties to the appeal of,
  - (a) the appointment of the panel; and
  - (b) the requirements as outlined below (section 34)
32. The panel shall hear the appeal in writing.
  - the appellant shall provide written submissions to the panel and the respondent no later than 20 business days after receiving notice that the panel has been appointed.
  - the respondent shall provide written submissions to the panel and the appellant no later than 20 business days after receiving the appellant's submissions.
  - the appellant shall provide their written reply to the respondent's submissions no later than 10 business days after receiving the respondent's submissions.
  - the chair of the panel may extend any timeline set out above at the written request of a party in order to provide for the fair, just and expeditious resolution of the appeal.
  - A decision to extend a timeline under shall be provided to the parties in writing and a copy of the decision shall be provided to the Deputy Minister.
33. The panel shall convene to consider the appeal at such times and in such places as they may determine.
34. The panel may be convened by electronic means.
35. The panel may,
  - (a) define or narrow the scope of the appeal;
  - (b) limit the length of submissions from the parties;

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- (c) make interim decisions and orders; and
  - (d) on its own motion, and without holding a hearing, dismiss an appeal as frivolous or vexatious or commenced in bad faith.
36. The panel shall provide its decision and its reasons, including any dissent, to the parties in writing no later than 30 business days after receiving the respondent's submission
37. If the panel overturns the determination made by the Integrity Commissioner, any sanction imposed by the Integrity Commissioner is revoked.
38. If the panel upholds the determination made by the Integrity Commissioner, the panel shall, within the time required by the regulations, uphold, vary or overturn the sanction.
39. If a sanction is varied or overturned, the variation or overturning shall be deemed to be effective as of the date the original determination was made.
40. The decision of a panel under this section respecting the determination of the Integrity Commissioner is final.
41. The chair of the panel shall notify the parties of any decisions made by the panel.
42. The panel shall provide a copy of the decision, reasons and dissent to the Deputy Minister.
43. The Authority shall keep records and publish information on its website about each of the following:
- A matter referred to an Integrity Commissioner.
  - A decision of the Integrity Commissioner
  - A determination by a panel if a panel has made a determination.
44. Where the alleged breach of the Board's code of conduct or the determination regarding the breach involves any of the matters described in *Ontario Education Act* Section 207 (2) (a) to (e), the Authority shall publish only such information as is appropriate.
45. The *Statutory Powers Procedure Act* does not apply to anything done under this policy.