

APPENDIX – TRUSTEE CODE OF CONDUCT SANCTIONS

STATEMENT OF POLICY

It is an expectation of the Board that trustees conduct themselves in an ethical manner in compliance with the law and the Trustee Code of Conduct. The Board believes that informal and collegial resolution of problems that arise among trustees is always the preferred approach. However, the Board recognizes that circumstances sometimes arise that are not amenable to such resolution, and therefore has determined that it should establish procedures by which a trustee may make a formal complaint about the behavior of another trustee, and how the complaint will be dealt with by the Board.

Procedures:

PROCEDURE WHEN A SERIOUS WRONGDOING IS SUSPECTED

1. A trustee who suspects that a fellow trustee may have committed a serious wrongdoing as defined in the *Public Interest Disclosure (Whistleblower Protection) Act* should discuss the matter with the Designated Officer for the Board, whose responsibility is to oversee complaints filed under the Whistleblower Act. The Designated Officer will assist the trustee in determining whether a complaint should be filed under the Whistleblower Act or the procedures set out below.

PROCEDURE FOR MAKING A COMPLAINT ABOUT A POSSIBLE BREACH OF THE TRUSTEE CODE OF CONDUCT

2. Informal Resolution.

A trustee who believes that a fellow trustee has violated the Trustee Code of Conduct may, but is not obliged to, seek to resolve the matter by informal discussion with that trustee. The Board strongly encourages this approach, and will upon request provide reasonable assistance and resources to assist in such resolution.

3. How To Make a Complaint.

A trustee (the “Complainant”) who wishes to make a complaint about a possible breach of the Trustee Code of Conduct by another trustee (the “Respondent”) shall deliver a letter detailing the complaint to the Board Chair. If the complaint is about the Board Chair, then it shall be delivered to the Vice-Chair. Subsequent reference to the Board Chair in this Appendix shall mean the Vice-Chair when the complaint is about the Board Chair.

4. Timelines to Make a Complaint.

The complaint should be delivered within thirty (30) days following the alleged conduct of the Respondent. The Board Chair may accept a complaint which is filed later than 30 days following the alleged conduct if there are extenuating circumstances or, if in the opinion of the Board Chair, the nature of the complaint is such that it should not be dismissed because of late filing.

5. Content of the Complaint.

The complaint should contain as much detail as possible and indicate the section or sections of the Trustee Code of Conduct that are alleged to have been violated.

6. Who Receives the Complaint.

The Respondent and all other trustees shall be provided with a copy of the complaint by the Board Chair within five (5) days following receipt of the complaint.

7. Confidentiality of Complaint.

The filing, notification, content, and nature of the complaint are privileged and strictly confidential. Public disclosure of the complaint or any resulting decision of the Board is strictly prohibited unless such disclosure is formally approved by the Board. Disclosure of any of these facts by a trustee shall be deemed to be a violation of the Code of Conduct.

8. Decision to Conduct an Investigation.

The Board Chair shall consider whether a complaint raises issues that require independent investigation, and may seek legal advice to that end. If the Board Chair is of the opinion that an independent investigator should be appointed, the Board Chair shall convene an *in camera* meeting as soon as possible. A decision to appoint an investigator must be approved by a majority of trustees present at the *in camera* meeting. This decision shall immediately be approved in a public meeting of the Board. The Respondent shall not participate or vote in the *in camera* hearing or Board meeting relating to the decision.

9. Investigation Report.

The investigator shall conduct an investigation and prepare a report containing findings of fact only. The investigation report must be submitted to the Board Chair as soon as possible after it is completed.

10. Delivery of Investigation Report.

The investigation report shall be forwarded to all trustees (except the Respondent) as soon as possible. Trustees shall treat the investigation report as strictly privileged and confidential. Disclosure by a trustee of the contents or existence of the investigation report shall be deemed to be a breach of the Code of Conduct.

11. Investigation Report Does Not Support the Complaint.

If, in the opinion of the Board Chair, the findings of fact in the investigation report do not support the complaint, trustees will be advised of that opinion as soon as possible. All trustees other than the Respondent shall have the right to request that a meeting be held to consider the investigation report, and upon receipt of one or more requests, such a meeting will be called under section 12.

12. Meeting to Consider Investigation Report.

Upon receipt of one or more requests under section 11, the Board Chair will convene an *in camera* meeting of trustees as soon as possible to consider whether the investigation report warrants a hearing under section 13. The Respondent shall not be entitled to a copy of the investigation report or to attend the *in camera* meeting. At the meeting, the trustees present shall consider the investigation report and determine by majority vote whether the complaint will proceed to a hearing under section 13.

13. Hearing to Consider Complaint.

The Board Chair shall, as soon as is reasonable, convene an *in camera* hearing of trustees to consider a complaint in the following circumstances:

- 13.1. where no investigation has been approved by the Board;
- 13.2. where an investigation report has been prepared, and the trustees have determined under section 12 that a hearing to consider the complaint should be convened; or
- 13.3. where an investigation report has been prepared, and the Board Chair has determined that the complaint should proceed to a hearing.

14. Who Can Participate and Vote at Hearing.

The Respondent has the right to be present at the hearing and to make representations, either personally, through an advocate, or both, regarding the complaint, but may not vote on the disposition of the complaint. All other trustees, including the Complainant, may attend the hearing, express views and ask questions, deliberate upon the matter, and vote unless they have a conflict of interest regarding the complaint. The fact of filing the complaint shall not in itself constitute a conflict of interest.

15. Decision at Hearing.

If a majority of trustees present at the *in camera* hearing and entitled to vote determine that the Respondent has violated one or more sections of the Code of Conduct, then the those trustees will determine, by majority vote, whether:

- 15.1. a warning or sanction will be applied;
- 15.2. the warning or sanction approved will be verbal or in writing; and,
- 15.3. the warning or sanction approved will be made public.

16. Remedy for a Breach of the Trustee Code of Conduct.

If, under section 15, the trustees determine that a warning or sanction is to be applied, the Board Chair will draft a verbal or written warning or sanction. Trustees entitled to vote will determine by majority vote whether to approve the draft. Once majority approval has been obtained, the Board Chair will deliver the verbal or written warning or sanction, or letter of warning or sanction to the Respondent. A notation of the verbal or written warning or sanction shall be recorded and maintained by the Secretary-Treasurer.

17. Subsequent Breach of the Trustee Code of Conduct.

Should a trustee who has been previously warned or sanctioned by the Board be found to have committed a subsequent breach of the Trustee Code of Conduct during the term of that Board, then a motion of severe censure against that trustee shall be made by the Board Chair to a public meeting of the Board. In addition, a motion to remove the trustee from one or more Board appointments may be presented for approval.

PROCEDURE TO DEAL WITH A TRUSTEE WHO IS DISQUALIFIED.

- 18. If a trustee is disqualified under section 87 or 88 of the *Education Act* from remaining as a trustee of the Board and does not resign as required under section 90, the Board will utilize the provisions of the *Education Act* to deal with the matter.

Reference:

Sections 33, 34, 51, 52, 53, 64, 67, 85, 86, 87, 88, 89, 90 *Education Act*

Last reviewed:	Last updated:
May 25, 2015	May 25, 2015
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