

Policy Number and Name: 311 Board Conflict of Interest

Policy Section: 300 Board Governance

Effective Date: November 23, 2023

Revised Date:

Purpose:

This protocol is intended to preserve and promote the reputation of both Board and the individual Trustees. It is inevitable that conflicts of interest and loyalty will arise from time to time. The purpose of this protocol is to give Trustees a clear road map to follow to help to identify and track these inevitable situations. The main point is that conflicts are not the problem; they are unavoidable. It is undeclared or undisclosed conflicts that are a problem and should be avoided; disclosure is the key.

Policy:

1) Definition

All Trustees have a duty to ensure that the integrity of the decision-making processes of the Board are maintained by ensuring that they and other Trustees are free from conflict or potential conflict in their decision-making. It is inherent in a Trustee's fiduciary duty that conflicts of interest be avoided. It is important that all Trustees understand their obligations when a conflict of interest or potential conflict of interest arises.

A conflict of interest arises in any situation where a Trustee's duty to act solely in the best interests of the organization and to adhere to the Trustee's fiduciary duties is compromised or impeded by any other interest, relationship, or duty of the Trustee. A conflict of interest also includes circumstances where the Trustee's duties to the organization are in conflict with other duties owed by the Trustee such that the Trustee is not able to fully discharge the fiduciary duties owed to the organization.

The situations in which potential conflict of interest may arise cannot be exhaustively set out. Conflicts generally arise in the following situations:

- a) Transacting with the organization - When a Trustee transacts with the organization directly or indirectly and has a material, direct, or indirect interest in a transaction or contract with the organization.
- b) Interest of a relative - When the organization conducts business with suppliers of goods or services or any other party of which a relative or member of the household of a Trustee is a principal, officer, or representative.
- c) Gifts - When a Trustee or a member of the Trustee's household or any other person or entity designated by the Trustee, accepts gifts, payments, services or anything else of more than a token or nominal value from a party with whom the organization may transact business (including a supplier of goods or services) for the purposes of (or that may be perceived to be for the purposes of) influencing an act or decision of the Board.

- d) Acting for an improper purpose - When Trustees exercise their powers motivated by self-interest or other improper purposes. Trustees must act solely in the best interest of the organization. Trustees who are nominees of a particular group must act in the best interest of the organization even if this conflicts with the interests of the nominating party.
- e) Appropriation of organization opportunity - When a Trustee diverts to the Trustee's own use an opportunity or advantage that belongs to the organization.
- f) Duty to disclose information of value to the organization - When Trustees fail to disclose information that is relevant to a vital aspect of the organization's affairs.
- g) Serving on the Board of other organizations - A Trustee may be in a position where there is a conflict of "duty and duty". This may arise where the Trustee serves as a Trustee of two organizations that are competing or transacting with one another. It may also arise where a Trustee has an association or relationship with another entity. For example, if two organizations are both seeking to take advantage of the same opportunity. A Trustee may be in possession of confidential information received in one boardroom or related to the matter that is of importance to a decision being made in the other boardroom. The Trustee cannot discharge the duty to maintain such information in confidence while at the same time discharging the duty to make disclosure. The Trustee cannot act to advance any interests other than those of the organization.

2) Process of Disclosure

The Board is of the firm conviction that its ability to discharge its obligations is dependent upon the confidence that the stakeholders of the Division place in its Board and in its Trustees.

The Trustee:

- a) Is expected to be conversant with *The Education Act, 1995*, and the most current version of *The School Division Administration Regulations* and the provisions of Policy 310 – Board Code of Conduct.
- b) Is responsible for declaring themselves to be in possible conflict of interest and for signing the annual Conflict of Interest declaration.
- c) Shall make such declaration in an open meeting prior to Board or committee discussion of the subject matter that may place the Trustee in conflict of interest.
- d) Is responsible to excuse themselves from the meeting in accordance with the requirements of *The Education Act, 1995*, and ensure that their declaration and absence is properly recorded within the minutes.
- e) Is responsible to complete the Public Sector Accounting Board (PSAB) PS 2200 – Related Party Transactions Disclosure form for Key Management Personnel (KMP).

- f) Is responsible to complete the Declaration of Compliance and Understanding (Appendix G).

Reference

SSBA Governance Handbook for School Board Members

Ontario Organizational Development program – Board Conflict of Interest Policy, January 2014

The Education Act, 1995