

#108124

Organizational By-Law

### **Trustee Code of Conduct**

#### **Section 1: Integrity and Dignity of Office**

The holding of public office is a trust created by the confidence the public places in its School Trustees elected in a free and fair election by community electors. To preserve this confidence, it is the desire of the Board to operate under the highest ethical standards in accordance with The Public Schools Act including the following obligations:

1. Trustees shall serve and be seen to serve their school communities in a constructive, respectful, conscientious and diligent manner;
2. Trustees shall discharge their duties loyally, faithfully, impartially and in a manner that will inspire public confidence in the abilities and integrity of the Board;
3. Trustees shall ensure their comments are issue-based and not personal, demeaning or disparaging with regard to any person, including Board staff or fellow Trustees;
4. Trustees, as ethical leaders of the Board, must at all times uphold the dignity of office and conduct themselves in a professional manner that will not discredit or compromise the integrity of the Board;
5. Trustees shall respect and understand the roles and duties of individual Trustees, the Board of Trustees, the Superintendent/CEO and the Chair of the Board;
6. Trustees shall understand that when engaging residents, staff, student and community whether in person, electronically or in a social media platform, the Trustee Code of Conduct is applicable to their dealings.

#### **Section 2: Statement of Integrity (see Appendix B)**

Governance for each Board member includes a commitment to ethical leadership as set out in the terms of its Organizational By-Law.

To that end, Board members will:

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1. Understand that their first and greatest concern is the educational welfare of all students attending the public schools, and that all decisions must be based on this understanding;
2. Work with other Board members and Board staff in a spirit of respect, openness, cooperation and proper decorum, in spite of differences of opinion that arise during debate;
3. Understand that every Board member has a right to hold and express their individual opinions;
4. Not divulge confidential information which is obtained in the capacity as a Board member, and not discuss those matters outside the meeting of the Board or Board Committee;
5. Render all decisions based solely on their merits;
6. Attend all Board meetings insofar as possible and be responsible for becoming informed on any and all issues coming before the Board, as well as being prepared to discuss and/or act upon all agenda items;
7. Seek to facilitate ongoing communication between the Board and students, staff, parents, and all elements of the community;
8. Conduct our meetings and foster an environment where all elements of the community can express their ideas;
9. Declare a conflict of interest when it arises and excuse ourselves from related discussion and action on that issue;
10. Refrain from using our position on the Board for personal or partisan gain;
11. Insist on regular and impartial evaluation of all staff, and conduct a yearly self-evaluation and set annual goals;
12. Fairly assess all non-instructional aspects of the school operation;
13. Support all decisions by the Board to the community once a decision has been reached;
14. Understand that we have no authority beyond that which is exercised at the Board meeting, and that we shall not lend the impression that we are

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speaking on the Board's behalf unless that authority has been so delegated.

15. Strive for a positive relationship with the Superintendent/CEO, respecting the Superintendent/CEO's authority to advise the Board, implement Board policy and administer the Division.

16. Strive for a positive relationship with the Secretary-Treasurer/Chief Financial Officer, respecting the Secretary-Treasurer/Chief Financial Officer's authority to advise the Board and administer the financial operations of the Division.

All Board members are required to read and sign the Statement of Integrity Agreement acknowledging their responsibility in this area. The Board Member Statement of Integrity Agreement shall be completed and submitted to the Secretary-Treasurer/Chief Financial Officer at the time of the inaugural meeting of each new Board or in the event of a by-election by a newly elected Trustee.

**Section 3: Conduct at Board and Committee Meetings**

1. It is paramount that Trustees conduct themselves with decorum at Board and committee meetings and in accordance with the provisions of the Organizational By-Law concerning meeting procedures.
2. When expressing individual views, Trustees shall respect differing points of view from other Trustees, staff, students and the public.
3. Trustees shall respect the role of the Chair of the Board in accordance with Board policy, the Board's Organizational By-Law and the provisions outlined in The Public Schools Act.

**Section 4: Confidentiality (see Appendices C & D)**

The Division and the Board of Trustees are one and the same under The Public Schools Act, so personal information that is shared internally with the Board does not require a FIPPA access application.

Trustees have the authority to request information as a Board, but not as individuals. Requests for information outside of the formal Board process regarding individual employees should be made to the Chair of the Board, in writing.

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All Board members are required to read and sign the Confidentiality Agreement acknowledging their responsibility in this area. The Board Member Confidentiality Agreement will be completed and submitted to the Secretary- Treasurer/CFO at the time of the inaugural meeting of each new Board or in the event of a by-election for a newly elected Trustee.

**Section 5: Ethical Conduct**

This section incorporates all aspects of Part 2, Sections 4 and 5 of The Public Service Act requiring the broader public service, including school divisions, to operate in a manner that is ethical and effective in serving the public. The objectives therein are embraced by the Board and provide direction for the whole Division and for all staff.

The Board recognizes that its conduct must always be ethical and equitable according to the values set out in The Public Service Act and that it must always operate with integrity.

Should there be a potential conflict of interest prior to any board action, board members must announce any conflicts of interest and comply with the conflict of interest requirements in accordance with Policy BCB Board Member Conflict of Interest and all applicable conflict of interest laws.

**Section 6: Conduct Respecting Staff Members**

1. No Trustee shall falsely harm the professional or ethical reputation, or the prospects or practice of staff members in the Division, and all Trustees shall show respect for the professional capacities of staff members.
2. Trustees shall be respectful of the role of staff members to provide advice based on objectivity and without undue influence from any individual Trustee or Trustees. No Trustee shall use, or attempt to use, their authority or influence for the purpose of intimidating or pressuring any staff member with the intent of interfering with that person's duties, including the duty to disclose improper activity by the Trustee.
3. Individual Trustees shall not provide direction to staff members. Trustees work with the Chair of the Board and the Superintendent/CEO. The Superintendent/CEO is responsible for communicating directions and associated expectations to staff on behalf of the Board of Trustees.

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**Section 7: Inappropriate Conduct**

1. All Trustees have a duty to treat members of the public, fellow Trustees, and staff members respectfully and without abuse, bullying or intimidation.
2. Federal, provincial and local legislation, including but not limited to Human Rights statutes, Workplace Safety and Health laws and regulations and all associated Board policies and procedures apply.
3. This section applies to all forms of written and verbal communication.
4. Trustees shall refrain from expressing opinions and/or sharing information through social media that would discredit, undermine or compromise the integrity of the Board or interfere with Division senior management in the performance of their duties.

**Section 8: Election Campaign Work**

No Trustee shall use the facilities, equipment, supplies, services, or other resources of the Board (including newsletters, social media sites and websites linked through the Board's website, contact information including email addresses obtained as a result of the member's performance of his or her duties as a Trustee) for any election campaign or campaign related activities.

**Section 9: External Organizations**

While carrying out business of the Board, a Trustee's interests are first and foremost that of the Division.

When an organization, which includes among its membership a Trustee, official or otherwise, the Board will not receive the Trustee as part of the organization's delegation or when making a formal presentation or request of the Board.

When an organization which includes among its membership a Trustee, makes a request of a Board, the member Trustee shall recuse themselves from any discussions or vote on the matter involving that organization.

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### **Appendix A – Enforcement of the Code of Conduct**

The Code of Conduct applies equally to the Chair of the Board. In the case of allegations of a breach of the Code of Conduct and/or related policy issues by the Chair, wherever a process requires action by the Chair, it shall be modified to read the Vice-Chair.

#### Identification of the breach at the Board Table

The Chair shall follow the Board's By-Laws and rules of procedure. A breach of the rule of order should be dealt with at the meeting in question by a Trustee rising to a point of order or appealing a ruling of the Chair. Once such an order is dealt with by the Board, all Trustees shall abide by that decision and no further actions shall be undertaken except for persistent improper use of the applicable rules of order.

#### Identification of the breach outside the Board Table

Any Board member perceiving another Board member to be in possible breach of the Code of Conduct should first raise the concern with the member in a private setting with the intent to resolve the concern. If the concern is not resolved the Board member who has reasonable grounds to believe that a Trustee of the Board 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 of the Board or if more appropriate, the Vice-Chair. The Chair and at the Chair's option, the Chair and Vice-Chair, will attempt to resolve the matter to the satisfaction of the Trustees involved.

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 person reporting the breach. An inquiry into a breach will not be undertaken after the expiration of six (6) months from the time the contravention is alleged to have occurred.

It is recognized that 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 his/her obligations under the Code.

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### **Informal Complaint Procedure**

The Board Chair on his/her own initiative, or at the request of a Trustee (without the necessity of providing a formal written complaint) may review the complaint and may, along with a designate, meet informally, with the Trustee who is alleged to have breached the Code, to discuss the breach. The purpose of the meeting is to bring the allegation to the attention of the Trustee and to discuss remedial measures to correct the offending behaviour. Notes of any informal meetings may include those names of those present, the name of the person alleged to have breached the Code and reference to the section being discussed.

The remedial measures may include, for example, a warning that a continuation of the behaviour may bring sanctions, an apology, disallowing the person to stand for the position of Chair or Vice-Chair of the Board or a committee of the Board and/or an agreed upon consequence which may include the requirement of the Trustee to engage in the successful completion of professional development training. Any agreed upon remedial measures must include a timeframe.

If there is a cost to an agreed-upon remedial measure, such as professional development, it will be borne by the Division.

Failing resolution, at the request of either party, the Chair or the Vice-Chair shall present the perceived breach to the full Board for consideration at an in-camera meeting and that complaint will be dealt with through sanctions provided in The Public Schools Act.

### **Formal Complaint Procedure**

Serious or recurring breaches of the Code by a Trustee are handled through a formal process.

A Trustee, employee or member of the public who has reasonable grounds to believe that a Trustee of the Board has breached the Board's Code of Conduct may verbally bring the breach to the attention of the Board by providing to the Chair:

- 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 attention of the complainant;

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- the grounds for the belief of the complainant that a breach of the Code has occurred; and
- the names and contact information of any witnesses to the breach or any other persons who have relevant information regarding the alleged breach.

The Chair shall share with all Trustees an oral report of the complaint within fifteen (15) business days of receiving it. The complaint, any response to the complaint and any investigation of the complaint shall be confidential until it is before the Board for a decision on sanctions.

#### Refusal to Conduct Inquiry

If the Chair is of the opinion that the breach is out of time, trivial, frivolous, or not made in good faith, or that there are no grounds or insufficient grounds for a breach, it shall be recorded in the minutes stating the date, section of the code discussed and the reason for not moving forward. If the person bringing the allegation forward is not present at the meeting, the Chair shall communicate the decision not to move forward to the complainant.

#### Steps of Inquiry

Any inquiries into a breach will be conducted confidentially. If the inquiry includes written statements, the person making the statement should be informed that it may be subject to release through the Freedom of Information and Protection of Privacy Act (FIPPA) or litigation.

The Trustee who is alleged to have breached the Code of Conduct shall have an opportunity to respond to the allegations in a private meeting with the person(s) bringing it to their attention or those 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 or litigation.

If the accused Trustee refuses to participate in the inquiry, the inquiry will continue in his/her absence.

If the Chair discover that the matter 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, and this shall be reported to the Board and the complainant.

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Decision

An oral report containing the recommendations of the Chair shall be made to the Board, and a decision by the Board as to whether or not the Code of Conduct has been breached and the sanction, if any, may be made as soon as practical after receipt of the report.

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 either at a meeting or outside a meeting.

A vote on a public sanction must be carried out at a public Board meeting. The resolution shall be recorded in the minutes and include the Trustee's name, the sanction and a reference to the point of the Code that was breached.

The resolution on policy sanctions or for public censure shall be decided by a majority vote of the total number of Trustees allotted for the Division. A resolution on a sanction to bar or suspend a Trustee in accordance with The Public Schools Act subsection 35.2(1) shall be decided by 2/3 of the Trustees allotted to the Division.

Deliberations may be held in camera. In accordance with subsection 35.2(2) of The Public Schools Act, the motion may be debated at a Board meeting that is closed to the public but must be voted on in public.

Sanctions

Subsection 35.2(1) of The Public Schools Act authorizes the Board of Trustees to impose one or more of three sanctions following an inquiry into whether the Trustee has breached the Board's Code of Conduct.

- a) Censuring the Trustee;
- b) Barring the Trustee from attending all or part of a meeting of the Board or a committee of the Board;
- c) Suspending the Trustee from the Board, including suspending all the Trustee's rights, duties and privileges as a member of the Board, for up to three months.

The Board shall not impose a sanction which is more onerous than the above but may impose one that is less onerous.

The Board will apply the sanctions and remedial measures itemized under the following steps to address the first and subsequent occurrences of a breach of

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the Code of Conduct, with documentation provided to the Trustee indicating next step(s) to be taken if the Trustee refuses to go with lesser options. Note – these steps may not necessarily be sequential:

1. One-on-one meeting (Trustee-to-Trustee or with Chair)
2. Verbal Admonishment from Chair with electronic follow-up verifying the conversation occurred
3. Written Letter of Admonishment marked 'Personal and Confidential' under the Chair's Signature, including an expectation of an apology and professional development requirement
4. Bar from taking a Board or Committee position for a period of time

The following measures below, as per The Public School Act, are voted on by the Board in a public forum:

1. Censure with electronic follow-up from Chair to Trustee
2. Written Letter of Censure marked 'Personal and Confidential' under the Chair's signature
3. Bar from attending all or part of a Board or Committee meeting
4. Suspension from the Board for a period of time not to exceed three months

The Board has no power to declare the Trustee's seat vacant if they are barred or suspended.

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 authorization for the Trustee to be absent from the meeting.

#### Appeal to Adjudicator

In accordance with the process in section 35.3 of The Public Schools Act, a Trustee may appeal a sanction to a single adjudicator appointed by the minister.

In accordance with The Public Schools Act Trustee Code of Conduct Appeal Regulation, the final determination of the Adjudicator will be provided at the same time to both parties.

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**Appendix B: Board Member Statement of Integrity Agreement**

As a Board Member of the St. James-Assiniboia School Division, I will:

1. Understand that our first and greatest concern is the educational welfare of all students attending the public schools, and that all decisions must be based on this understanding;
2. Work with other Board members in a spirit of respect, openness, cooperation and proper decorum, in spite of differences of opinion that arise during debate;
3. Understand that every Board member has a right to hold and express their individual opinions;
4. Not divulge confidential information which is obtained in the capacity as a Board member, and not discuss those matters outside the meeting of the Board or Board Committee;
5. Render all decisions based solely on their merits;
6. Attend all Board meetings insofar as possible and be responsible for becoming informed on any and all issues coming before the Board, as well as being prepared to discuss and/or act upon all agenda items;
7. Seek to facilitate ongoing communication between the Board and students, staff, parents, and all elements of the community;
8. Conduct our meetings and foster an environment where all elements of the community can express their ideas;
9. Declare a conflict of interest when it arises and excuse ourselves from related discussion and action on that issue;
10. Refrain from using our position on the Board for personal or partisan gain;
11. Insist on regular and impartial evaluation of all staff, and conduct a yearly self-evaluation and set annual goals;
12. Fairly assess all non-instructional aspects of the school operation;
13. Support all decisions by the Board to the community once a decision has been reached;
14. Understand that we have no authority beyond that which is exercised at the Board meeting, and that we shall not lend the impression that we are speaking on the Board's behalf unless that authority has been so delegated.

I acknowledge that I have read and agree to abide by the St. James-Assiniboia School Division Board of Trustees Statement of Integrity.

\_\_\_\_\_  
(Date signed)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name – please print)

\_\_\_\_\_  
(Position)

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**Appendix C: Board Confidentiality/Requests for  
Personal Employee Information**

**Introduction**

St. James-Assiniboia School Division is committed to openness and accountability. The Board will encounter situations where the information used to make a decision must remain confidential. These matters involve, but are not limited to legal opinions, labour relations, the leasing or sale of land or buildings, and personal matters concerning staff and/or students. If these matters were considered in detail in public session it would damage or prejudice the interests of the division or of a related third party.

These matters are discharged by the Board as part of the trust relationship it has with the community.

Respecting confidentiality is not only a cornerstone of trust and confidence, but it is also a legislated responsibility.

The Board's policies and protocols shall reflect its wish to handle information it holds, consistent with the protection of individual privacy, the effective management of division business, and relevant legislation.

**Purpose**

Board members have a duty of fiduciary care to the school division and this includes a duty of confidentiality. This regulation will provide guidance with respect to confidential school division matters, materials and discussion, requests for personal employee information, and will assist board members in dealing with confidential information in a responsible and ethical manner.

Accordingly, Board members commit to the following expectations:

- a) Ensuring that board materials and information, including electronic information, is handled in accordance with Freedom of Information and Personal Privacy and Personal Health Information Acts, divisional policy, Organizational By-Law and/or other legal statutes;
- b) Ensuring that the substance of information obtained during in camera meetings is not shared with anyone, including family members;
- c) Ensuring that material distributed during in camera meetings is returned to the divisional administration as deemed necessary by divisional policy and/or legal statutes for disposal by the Superintendent/CEO of Schools or designate(s), unless otherwise counselled by the divisional administration;

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- d) Ensuring that information related to divisional personnel matters remains at the site of in camera meetings, unless otherwise advised by the divisional administration;
- e) Ensuring that, in the event of their vacating permanently or temporarily their duties as Trustees, all material acquired in the course of their duties is returned to the Superintendent/CEO or designate(s).

**Responsibility**

It is the responsibility of the Superintendent/CEO to ensure which Board and Committee materials are considered confidential in keeping with relevant legislation and the Board’s policies and Organizational By-Law.

It is also the responsibility of the Superintendent/CEO to ensure that a process is in place to make the identification of any confidential material obvious and unmistakable.

It is the responsibility of the board chair or the board (by motion) to ensure that board materials are appropriately classified as open to release.

Briefing documents, minutes, reports and any other documents identified as confidential and received by a Trustee or anyone else for purposes of a meeting or other deliberations of the Board or its committees, as confidential. Confidential material received by a Trustee or anyone else for purposes of a confidential proceeding of the Board or its committees shall not be divulged to any other person without the express prior authorization of the Board. Trustees shall not comment publicly on confidential Board or committee deliberations.

Protocol - Board of Trustee Requests for Personal Employee Information

- a) The Division and the Board of Trustees (Board) are one and the same under the Public Schools Act, so personal information that is shared internally with the Board does not require a FIPPA access application etc., however section 42(1) of FIPPA contains the same “need to know” principle that applies to all division employees. Trustees have the authority to request information as a Board, but not as individuals.
- b) Requests for information outside of the formal board process (e.g. grievances) regarding individual employees should be made to the Chair of the Board in writing.
- c) Trustees should answer the following questions in their written request for information through the Chair: Do I need to know this information? What is the intended purpose of the information? Administration should ask the same question when responding to these requests.

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- d) If the “need to know” assessment is met, the amount of personal information disclosed internally to the Board of Trustees by administration will be as minimal as possible while still being useful for the purpose in question.
- e) Individual trustee requests for personal information should be referred back to the Chair of the Board so a formal request may be made by the Board and if not supported by the Board, the individual trustee will be referred to the FIPPA access application process.
- f) Any personal information supplied to administration by trustees regarding employees will be received, reviewed and acted upon accordingly by administration. Any action taken as a result of this information will not typically be conveyed to the Board. If further Board involvement is required by administration, it will be sought through the formal board process.
- g) When determined appropriate, information provided to Trustees would be for the intended use only and it is understood that it is not to be disclosed without consent and/or approval.

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**Appendix D: Board Member Confidentiality Agreement**

As a Board Member of the St. James-Assiniboia School Division (“the Division”), I acknowledge and understand that I may/will have access to personal information and personal health information about others, including students, the confidentiality and protection of which is governed by the Freedom of Information and Protection of Privacy Act (FIPPA) and The Personal Health Information Act (PHIA), or any other applicable Acts.

I further acknowledge and understand that the St. James-Assiniboia School Division and Manitoba Education have established written policies and procedures containing provisions for the security of personal records and information in the Division’s possession during its collection, use, disclosure, storage, and destruction; provisions for the recording of security breaches; and corrective procedures to address security breaches.

I agree not to use in any manner whatsoever, at any time during or after the course of my employment with the Division any such personal information except as required to perform my job duties, unless authorized in writing by the Board prior to such use.

I further agree not to disclose to any person at any time during or after the course of my employment with the Division any such personal information except in compliance with the written policies referenced above,  
I acknowledge that I am bound by the policies and procedures established by the St. James-Assiniboia School Division in accordance with these Acts and I agree to treat confidential matters as required in school division policy and by-law.

\_\_\_\_\_  
(Date signed)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name – please print)

\_\_\_\_\_  
(Position)

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