

Authority Policy 1001

Trustee Code of Conduct

Legal References: Education Act: 2009, Sections 209(1); 218.1-218.3; Municipal Freedom of Information and Protection of Privacy Act.
Municipal Conflict of Interest Act

Related References: Bill 177

Effective Date: October, 5, 2022

Revisions:

Reviewed:

A KidsAbility School Authority (KAS) trustee applies to the KAS Board and is appointed by the Ministry of Education through the Public Appointments Secretariat.

A Code of Conduct contributes to confidence in education and respect for the integrity of trustees in the community. It deals with acceptable and respectful behaviours.

Trustees are responsible for upholding our Commitments and the Strategic Priorities and Outcomes of the KidsAbility School Authority.

Application

This Code of Conduct and the enforcement procedures apply to all trustees of the Authority, including the Chairperson of the Authority.

CODE OF CONDUCT Integrity and Dignity of Office

1. Trustees of the KAS Authority shall discharge their duties loyally, faithfully, impartially and in a manner that will inspire public confidence in the abilities and integrity of the Authority.
2. Trustees of the Authority shall recognize that the expenditure of school authority funds is a public trust and endeavour to see that the funds are expended efficiently, in the best interests of the students.
3. Trustees shall be aware that as leaders of the Authority, they must uphold the dignity of the office and conduct themselves in a professional manner when acting in the capacity of trustee.
4. Trustees shall ensure that their public comments are issue-based and not personal, demeaning or disparaging with regard to fellow trustees, stakeholders or the Authority as a whole.

5. Trustees shall endeavour to participate in ongoing trustee professional development opportunities to enhance their ability to fulfill their obligations.

Avoidance of personal advantage and conflict of interest

6. No trustee shall accept a gift from any person or entity that has dealings with the Authority if a reasonable person might conclude that the gift could influence the trustee when performing their duties to the Authority unless permitted by the following exceptions:

i. The gift is received as an incident of protocol, custom or social obligation that normally accompany the responsibility of the office of trustee; and

ii The gift is received as a suitable memento of a function honouring the trustee.

7. A trustee shall not use their office to advance the trustee's interests or the interests of any family member or person or organization with whom or with which the trustee is related or associated.

8. No trustee shall use their office to obtain employment with the KAS Authority for the trustee or a family member.

Compliance with Legislation

9. A trustee shall discharge their duties in accordance with the *Education Act* and any regulations, directives or guidelines thereunder and comply with the *Municipal Freedom of Information and Protection of Privacy Act*, and any other relevant legislation.

10. Every trustee shall uphold the letter and spirit of this Code of Conduct.

11. Each trustee shall abide by Section 209(1), Declaration in the *Education Act* made upon the office of a trustee.

11.1 Declaration 209(1) Except as provided in subsection (2), every person elected or appointed to a board, on or before the day fixed for the first meeting of the new board, or on or before the day of the first meeting that the person attends, shall make and subscribe the following declaration in English or French before the secretary of the board or before any person authorized to administer an oath or affirmation and in default the person shall be deemed to have resigned:

11.2 I solemnly declare that I am not disqualified under any Act from being a member of The KAS Authority.

11.3 I solemnly declare that I will truly, faithfully, impartially and to the best of my ability execute the office of Authority member, and that I have not received and will not receive any payment or reward or promise thereof for the exercise of any partiality or malversation or other undue execution of the said office and that I will disclose any pecuniary interest, Education Act R.S.O. 1990, c.E.2, s.209(1); 1997, c.31, s.108(1); 2009, c.25, s.23(1).

12. Trustees shall understand and comply with the roles and duties of individual trustees, the Board of Trustees, senior staff and the Chairperson of the Authority of the Board as outlined in the *Education Act*, the KAS Authority policies, procedures, Communications Protocol and Authority Bylaws.

Civil Behaviour

13. No trustee shall engage in conduct during meetings of the Authority or committees of the Authority, and at all other times that would discredit or compromise the integrity of the Authority.

14. A trustee of the Board shall not advance allegations of misconduct and/or a breach of this code of conduct that are trivial, frivolous, vexatious, made in bad faith or vindictive in nature against another trustee, a staff member, or the Board as a whole.
15. When expressing individual views, trustees shall respect the differing points of view of other trustees on the Board, staff, students and stakeholders.
16. Trustees shall at all times act with dignity and decorum and shall be respectful of other trustees of the Board, staff, students and stakeholders.
17. All trustees of the Board shall endeavour to work with other trustees of the Board and staff of the School in a spirit of respect, openness, courtesy, and co-operation.

Respect for Confidentiality

18. Every trustee shall keep confidential any information disclosed or discussed at any In Camera meeting of the Board, in accordance with Section 207(2), of the *Education Act*, Closing of Certain Committee Meetings, and keep confidential the substance of deliberations of a private meeting, unless required to divulge such information by law or authorized by the Board to do so.
19. No trustee shall use confidential information for personal gain, to the detriment of the Board, or in a manner that undermines confidence in public education.
20. Trustees shall not divulge confidential information, including personal information about an identifiable individual or information subject to solicitor-client privilege that a trustee becomes aware of because of their position, except when required by law or authorized by the Board to do so.
21. A trustee shall ensure that personal information of an individual is not collected, used or disclosed by them except in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*.

This includes ensuring that mobile devices are password protected and encrypted, information is protected on shared computers, physical documents are kept in locked cabinets and are shredded when no longer required.

Upholding decisions

22. All trustees shall accept that, they have no individual authority as a trustee other than that delegated by the Board.
23. Each trustee shall uphold the implementation of any Board resolution after it is passed by the Board, in accordance with Section 218(1), of the *Education Act*, Duties of Board Members. A proper motion for reconsideration, if permitted by the Board's Operational By-Law, may be requested by a trustee.
24. A trustee must be able to explain the rationale for a resolution passed by the Board. A trustee may respectfully state his or her position on a resolution provided it does not in any way undermine the implementation of the resolution.
25. Each trustee must be familiar with and comply with all Board policies, procedures, Board Bylaws, and *Roberts Rules of Order* (as amended/revised from time to time).
26. The Chairperson of the Board of the Board is the spokesperson to the public on behalf of the Board, unless otherwise determined by the Board. No other trustee shall speak on behalf of the Board unless expressly authorized by the Chairperson of the Board or Board of Trustees to do so. When individual trustees express their opinions in public, they must make it clear that they are not speaking on behalf of the Board.

Enforcement of the Code

Identifying a Breach of the Code

27. A trustee who has reasonable grounds to believe that another trustee has breached the Board's Code of Conduct may bring the alleged breach to the attention of the Board. This is done through the Chairperson of the Board. If the breach pertains directly to the Chairperson of the Board, the allegation should be brought forward through the Vice-Chairperson of the Board.**
28. Any allegation of a breach of the Code of Conduct must be brought to the attention of the Chairperson of the Board no later than six (6) weeks after the breach comes to the knowledge of the trustee reporting the breach. Notwithstanding the foregoing, in no circumstance shall an inquiry into a breach of the Code of Conduct be undertaken after the expiration of six (6) months from the time the contravention is alleged to have occurred.
29. Any allegation of a breach of the Code of Conduct shall be investigated following the *Informal or Formal Complaint Process* (outlined below), as the case may be.**
30. It is expected that whenever possible, allegations of a breach of the Code of Conduct by a trustee shall be investigated following the informal complaint process. It is recognized that from time to time a contravention of the Code of Conduct 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 of Conduct is to assist the trustee in understanding his or her obligations under the Code, and the *Education Act*, and other relevant legislation. Only serious and/or reoccurring breaches of the Code of Conduct by a trustee should be investigated following the *Formal Complaint Process*.**

Chairperson of the Board or Presiding Officer

31. The Code of Conduct applies equally to the Chairperson of the Board of the KAS Authority. In the case of an allegation of a breach of the Code by the Chairperson of the Board, wherever a process requires action by the Chairperson of the Board, it shall be modified to read the Vice- Chairperson of the Board.**
32. Each year at the December Board Meeting, two alternate trustees shall be elected by the Board in the same manner that committee assignments are chosen to carry out any of the duties required under this code of conduct. In no circumstance shall the trustee who is party to the complaint of a breach of the code of conduct, be involved in the inquiry into the complaint.**
33. The Chairperson of the Board or the Presiding Officer must have the ability to control any meeting of the Board or its committees. Any trustee who does not abide by a reasonable expulsion or exclusion from a meeting is deemed to have breached this Code of Conduct. Nothing in this Code of Conduct prevents the Chairperson of the Board or the Presiding Officer of any meeting of the Board or committee of the Board from exercising their power pursuant to Section 207(3) of the *Education Act*, Exclusions of Persons, "to *expel or exclude from any meeting any person who has been guilty of improper conduct at the meeting*". For greater certainty, this may be done at the sole discretion of the Chairperson of the Board or Presiding Officer, as the case may be, and without the necessity of a complaint or conducting an inquiry before an expulsion or exclusion from a meeting.
34. The Chairperson of the Board or the 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.
35. The Chairperson of the Board or the Presiding Officer shall follow the rules of order of the Board and/or the adopted Rules of Order and meeting procedures contained in any Policy or Bylaw of the Board. A breach of a 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 Chairperson of the Board in accordance with any applicable rule of order. Once such a motion is dealt with by the Board of Trustees, all trustees

shall abide by that decision and no further action shall be undertaken pursuant to the Enforcement of the Code of Conduct, except for persistent improper use of the applicable rules of order by the Chairperson of the Board or the Presiding Officer.

Informal Complaint Procedure

36. The Chairperson of the Board, on their own initiative, or at the request of a trustee (without the necessity of providing a formal written complaint) who alleges a breach of the Code of Conduct has occurred, may meet informally with a trustee who is alleged to have breached the Code of Conduct, to discuss the breach.
37. The purpose of the meeting is to bring the allegation of the breach to the attention of the trustee and to discuss remedial measures to correct the offending behaviour. The informal complaint process is conducted in private.
38. The remedial measures may include, for example, a warning, an apology, an agreed-upon consequence, and/or the requirement of the trustee to engage in the successful completion of professional development training such as that offered by the Ontario Education Services Corporation *Professional Development Program for School Board Trustees*. If the Chairperson of the Board and the trustee alleged to have breached this Code cannot agree on a remedy, then a formal complaint may be brought against the trustee alleged to have breached this code and that complaint will be dealt with in accordance with the formal complaint process.

Formal Complaint Procedure

39. A trustee who has reasonable grounds to believe that another trustee has breached the Board's Code of Conduct may bring the breach to the attention of the Board by first providing to the Chairperson of the Board, a written, signed complaint setting out the following:**

- (i) the name of the trustee who is alleged to have breached the Code of Conduct;**
- (ii) the alleged breach or breaches of the Code of Conduct;**
- (iii) information as to when the breach came to the trustee's attention;**
- (iv) the grounds for the belief of the trustee that a breach of the Code of Conduct has occurred; and**
- (v) the names and contact information of any witnesses to the breach or any other persons who have relevant information regarding the alleged breach.**

If a written complaint is filed with the Chairperson of the Board, then a formal inquiry shall be undertaken unless the complainant subsequently withdraws the complaint or agrees that the complaint may be dealt with in accordance with the informal complaint process.**

40. In an election year for trustees, a Code of Conduct complaint regarding a trustee who is seeking re-election shall not be processed during the period commencing two months prior to Election Day and ending after the first Board Meeting after the new term of office of the Board commences. If the trustee accused of a breach of the Code of Conduct is not re-elected, no inquiry into the alleged breach by that trustee shall be undertaken. The limitation period for bringing a complaint shall be extended as necessary.

41. The Chairperson of the Board of the Board shall first notify the trustee of the alleged complaint within three (3) working days after receiving the written complaint.**
42. The Chairperson of the Board of the Board shall provide, to all trustees, a confidential copy of the complaint within ten (10) days of receiving it. All materials regarding the complaint shall be confidential until it is before the Board of Trustees for a decision as to whether or not the trustee has breached this Code.**

Refusal to Conduct Formal Inquiry

43. If the Chairperson of the Board and Vice-Chairperson of the Board are of the opinion that the formal complaint is out of time, or that there are no grounds or insufficient grounds for a formal inquiry, a formal inquiry shall not be conducted and a confidential report stating the reasons for not doing so shall be provided to all trustees.**
44. If the Chairperson of the Board and Vice-Chairperson of the Board cannot agree on the above then a full formal inquiry shall be conducted.**
45. If an allegation of a breach of the Code of Conduct appears directly related to non-compliance with a more specific Board policy with a separate complaint procedure, the allegation shall be processed under that policy or procedure.**

Steps of Formal Review Inquiry

46. If a formal review inquiry of an allegation of a breach of the Code of Conduct is undertaken, it shall be done by the Chairperson of the Board and Vice-Chairperson of the Board, if appropriate, or any two of the Chairperson of the Board, Vice-Chairperson of the Board and the alternate trustees s e l e c t e d by the Board (under Section 32 of this Code) who are not party to the complaint, or an outside consultant recommended by the Code of Conduct committee and approved by resolution of the Board.**
47. Regardless of who undertakes the inquiry the following steps shall be followed.**
48. The *Statutory Powers Procedure Act* does not apply to anything done regarding the enforcement of this Code of Conduct. No formal trial-type hearing will be conducted.**
49. Procedural fairness shall govern the formal review inquiry. The formal inquiry will be conducted in private.**
50. The formal review inquiry may involve both written and oral statements by any witnesses, the trustee bringing the complaint and the trustee who is alleged to have breached the code of conduct. Witnesses will review and verify their statements prior to inclusion in the final report.**
51. The trustee who is alleged to have breached the code of conduct shall have an opportunity to respond to the allegations both in a private meeting with the person(s) undertaking the formal review inquiry and in writing.**
52. It is expected that the formal review inquiry will be conducted within a reasonable period of time, which will depend on the circumstances of the case. The trustee who is alleged to have breached the code of conduct shall provide a written response to the allegations within ten (10) days of receiving the written allegation, or such extended period of the time as the investigators deem appropriate in the circumstance.**
53. If the trustee who is alleged to have breached the Code of Conduct refuses to participate in the formal review inquiry, the process will continue in his or her absence.**
54. Once the formal review inquiry is complete, the investigators shall provide a confidential draft copy of their report containing the findings of the facts to the trustee who is alleged to have breached the Code of Conduct and the trustee who brought the complaint for their written comment to the investigator.**
55. The purpose of providing the draft report to the parties is to ensure no errors of fact are contained in it. The two trustees shall have ten (10) days, or such reasonable period of time as deemed appropriate by the investigators, from the receipt of the draft report to provide a written response.**

56. The final report shall outline the finding of facts, but not contain a recommendation or opinion as to whether the Code of Conduct has been breached. This will be determined by the Board of Trustees as a whole.
57. If the Chairperson of the Board and Vice-Chairperson of the Board (or, if required, the alternate trustees appointed by the Board) when conducting the formal review inquiry cannot agree on the final finding of facts, it shall be referred to an outside investigator to complete the informal inquiry.**

Suspension of Formal Review Inquiry

58. If the investigators, when conducting the formal review inquiry, discover that the subject matter of the formal review 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 formal review inquiry shall be suspended until the police investigation, charge or matter under another Act has been finally disposed of. This shall be reported to the rest of the Board of Trustees.**

59. If the complainant and respondent wish to further explore the option of resolving the matter through alternative means, the formal review inquiry shall be suspended. The Chairperson of the Board will be advised. Possible resolution methods with the complainant and/or respondent will be explored to determine the course of action. If the parties were not successful in reaching a satisfactory resolution, the formal investigation will resume at the point where the investigation was suspended.**

Decision

60. The final report shall be delivered to the Board of Trustees for a decision as to whether or not the Code of Conduct has been breached. A sanction, if any, for the breach shall be made as soon as practical after receipt of the final report by the Board.
61. Trustees shall consider only the findings in the final report when voting on the decision and sanction. If a trustee chooses to undertake their own investigation it would be considered a breach of the Code of Conduct by the trustee who undertakes their own investigation.**
62. If the Board of Trustees determines that there has been no breach of the Code of Conduct or that a contravention occurred although the trustee took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgment made in good faith, no sanction shall be imposed.
63. The determination of both a breach of the Code of Conduct and also the imposition of a sanction with respect to a complaint investigated in accordance with the formal complaint process must be done by formal resolution(s) of the Board at a meeting of the Board, and the vote on the resolution(s) shall be open to the public. The resolution(s) shall be recorded in the minutes of the meeting. Both resolutions pertaining to a breach of the Code and any related decision regarding a specific sanction shall be decided by a vote of at least two-thirds of the trustees of the Board present and voting.**
64. Despite Section 207 (1) of the *Education Act*, Open Meetings of the Board, the part of the meeting of the Board during which a breach or alleged breach of the Board's Code of Conduct is considered may be closed to the public when the breach or alleged breach involves any of the matters described in clauses 207(2) (a) to (e), Closing of Certain Committee Meetings, specifically:
 1. (a) the security of the property of the board;
 2. (b) the disclosure of intimate, personal or financial information in respect of a member of the board or committee, an employee or prospective employee of the board or a pupil or his or her parent or guardian;
 3. (c) the acquisition or disposal of a school site;
 4. (d) decisions in respect of negotiations with employees of the board; or
 5. (e) litigation affecting the board.

65. The trustee who is alleged to have breached the Code of Conduct:
 1. (a) may be present during the deliberations;
 2. (b) shall not participate in the deliberations;
 3. (c) shall not be required to answer any questions at that meeting; and
 4. (d) shall not vote on a resolution to determine whether or not there is a breach or the imposition of a sanction.
 5. (e) shall not after the final report is completed, influence the vote on the decision of the breach or sanction.
66. The trustee who filed the complaint may **not** vote on the resolution to determine whether or not there is a breach and/or the imposition of a sanction.**

Sanctions

67. If the Board determines that the trustee has breached the Board's Code of Conduct, one or more of the following sanctions may be imposed:
 1. (a) censure of the trustee;
 2. (b) barring the trustee from attending all or part of a meeting of the Board or committee meeting;
 3. (c) barring the trustee from sitting on one or more committees of the Board, for the period of time specified by the Board, not to exceed six months; and/or
 4. (d) restrictions on the rights of the trustee to attend in camera meetings or receive in camera materials.
68. The Board shall not impose a sanction which is more onerous than the above but may impose one that is less onerous such as a warning or a requirement that the trustee successfully complete specified professional development at the expense of the Board.
69. The Board has no power to declare the trustee's seat vacant.
70. A trustee who is barred from attending all or part of a meeting of the Board or committee meeting 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.
71. 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 and therefore, not in violation of the *Education Act* regarding absences from meetings, Section 228 (1) (b).

Reconsideration

72. If the Board determines that a trustee has breached the Board's Code of Conduct the Board shall,
 1. (a) give the trustee written notice of the determination, the reasons for the decision and any sanction imposed by the Board; and
 2. (b) the notice shall inform the trustee that he or she may make written submissions to the Board in respect of the determination or sanction by the date specified in the notice that is at least fourteen (14) days after the notice has been received by the trustee; and
 3. (c) consider any submissions made by the trustee and shall confirm or revoke the determination or sanction within fourteen (14) days after the submissions are received.

If the Board revokes a determination, any sanction imposed by the Board is revoked.

73. If the Board confirms a determination, the Board shall, within the fourteen (14) days above, confirm, vary or revoke the sanction.
74. If a sanction is varied or revoked, the variation or revocation shall be deemed to be effective as of the date the original determination was made.

75. The Board's decision to confirm or revoke a determination or confirm, vary or revoke a sanction shall be done by resolution at a meeting of the Board and the vote on the resolution shall be open to the public. Both resolutions shall be decided by a vote of at least two-thirds of the trustees present and voting. The resolutions shall be recorded in the minutes of the meeting together with the reasons for confirming or revoking a determination. The Board shall provide to the trustee alleged to have breached the Code of Conduct written notice of the decision to confirm or revoke the determination together with reasons for the decision and written notice of any decision to confirm, vary, or revoke a sanction. The respondent and complainant shall not vote on those resolutions.**
76. The trustee who is alleged to have breached the Code of Conduct may be present during the deliberations regarding the above but may not participate in the deliberations and shall not be required to answer any questions at that meeting.
77. If appropriate, the original sanction may be stayed pending reconsideration by the Board of the determination or sanction.

Administrative Matters

80. The Statutory Powers Procedure Act does not apply to any of the enforcement provisions under section 218.3 of the *Education Act*. No formal trial-type hearing will be conducted.
81. Nothing in this Code of Conduct prevents a trustee's breach of the *Municipal Conflict of Interest Act* from being dealt with in accordance with that *Act*.

**** Note:** If the Board of Trustees choose to move to the use of a third party investigator or an Integrity Commissioner, the sections of this policy marked with ** will require additional amendment.