

EASTERN TOWNSHIPS SCHOOL BOARD	<i>Title:</i> BY-LAW NO. 3 - CODE OF ETHICS AND PROFESSIONAL CONDUCT FOR THE COMMISSIONERS OF THE EASTERN TOWNSHIPS SCHOOL BOARD	
<i>Source:</i> Education Act Council of Commissioners	<i>Adopted:</i> June 23, 2009 <i>Modified: November 24, 2009</i>	<i>Reference Number:</i> B003 Resolution # ETSB09-11-44

1. REFERENCE

Education Act (R.S.Q., chapter 1-13.3), sections 175.1 to 175.4, 176, 177.1.

2. TITLE

This By-Law is entitled: *Code of Ethics and Professional Conduct for the Commissioners of the Eastern Townships School Board.*

3. APPLICATION

Unless indicated otherwise, this By-Law applies to both commissioners and parent-commissioners (as defined by section 143 of the *Education Act*), during their respective term of office. In terms of section 5.2 of this *Code of Ethics*, the obligation of confidentiality applies indefinitely.

4. DEFINITIONS

4.1 Professional Conduct Review Committee: The committee described in section 6 of this By-Law and designated by the *Education Act* to examine a complaint concerning a conduct of a commissioner which is contrary to or contravenes the standards of this By-Law;

4.2 Conflict of Interest: The strict definition of conflict of interest is mentioned in section 175.4 of the *Education Act*.

(the commissioner) who has a direct or indirect interest in any enterprise which places the member's personal interest in conflict with the interest of the school board (...).

In addition to what is specifically provided for by section 175.4 regarding the interests he might have in an enterprise, a commissioner will be deemed to be in a situation of conflict of interest if he is in a situation that places or could place his personal interests or those of his close relations in conflict with those of the school board.

- 4.3 Close relations:** The spouse, common-law spouse, children, step children, father, mother, brother, sister, brother-in-law, sister-in-law, father-in-law, mother-in-law, son-in-law, daughter-in-law, nephew or niece of a commissioner.

5. DUTIES AND RESPONSIBILITIES OF COMMISSIONERS

5.1 General duties

The commissioner must abide by the duties and obligations prescribed by the *Education Act*, more particularly section 143 to 178, and the *Act Respecting Access to Documents Held by Public Bodies and the Protection of Personal Information*.

The commissioner fulfils his office with independence, integrity and good faith in the best interest of the school board and the population served by the school board.

The commissioner must treat the other commissioners as well as the employees of the school board with respect.

5.2 Use of confidential information

A commissioner must demonstrate absolute discretion, both during and after his term of office, and must respect the confidential nature of the information obtained, particularly the information disclosed during meetings held *in camera*. The form entitled *Confidentiality of Information Discussed During Meetings* (Appendix A) will be signed by a commissioner when he's elected or reelected and given to the Secretary General.

As regards contracts or agreements to be negotiated or concluded with the school board, a commissioner shall not use the information obtained in the exercise of his duties to derive a benefit to which he is not entitled or to which his close relations are not entitled.

5.3 Decisional authority

A commissioner does not have powers or authority in his own right regarding the school board's activities. His powers and authority are exercised through duly convened structures of the school board.

Every commissioner must act in a manner that reflects and respects decisions taken by the Council of Commissioners. This means that every commissioner must be able to explain the rationale for the decision and ensure that it is understood and implemented.

5.4 Rules and policies

A commissioner must abide by the rules and policies established by the school board.

5.5 Equity

A commissioner must not use his position to obtain for his close relations or for himself services offered by the school board to which he or they are not normally entitled.

5.6 Undue advantage

A commissioner must not award, solicit or accept an undue advantage for himself or another person.

He shall refuse, and disclose to the Professional Conduct Review Committee, any offer of services or goods made to him by a person in order to obtain a contract or any other benefit from the school board.

5.7 Conflict of interest

A commissioner must avoid any situation of conflict of interest as provided by the *Education Act* and by this By-Law.

Upon a commissioner's entry into office, he shall identify, in writing, on the form provided by the school board (Appendix B), situations or relationships* which might reasonably create a conflict of interest. This form shall be completed once a year and at any time a change occur which might create a similar situation.

A commissioner who is in a situation of conflict of interest, as defined by this By-Law, with regard to a subject treated by the Council of Commissioners must disclose it and withdraw from the session of the Council in order to allow the deliberations and the vote on this subject to take place without him.

5.8 Remuneration

A commissioner is not entitled to any remuneration other than the one determined by the Council of Commissioners in accordance with the law and the regulations.

6. PROFESSIONAL CONDUCT REVIEW COMMITTEE

6.1 Composition

6.1.1 The Council of Commissioners establishes the Professional Conduct Review Committee consisting of three members chosen from applicants who meet the requirements of the categories listed under section 6.3.1.

6.1.2 The members' appointment will be confirmed by Council resolution prior to them taking office.

6.1.3 The term of office of the members is four years.

6.2 Mandate

The Professional Conduct Review Committee:

6.2.1 Is responsible for the application of this Code.

6.2.2 Investigates situations and allegations of a conduct, by a commissioner, contrary to the standards of this By-Law.

6.2.3 Determines its rules of internal procedure for the session.

6.2.4 Disposes of the complaint without delay.

6.2.5 Hears, at its discretion, other persons likely to assist in the review of the complaint.

6.2.6 Requests any information it deems necessary to assist in the review of the complaint.

6.3 Members and alternates

6.3.1 Categories of members and alternates:

- Former elected ETSB commissioner who has not held that office for at least four years;
- Any holder of publicly elected office, other than an ETSB commissioner, who no longer holds that office;
- Former school or school board administrator who has ceased such function for at least two years;
- Practicing or retired lawyer experienced in education or public law;

- Experienced mediator or arbitrator holding active membership in an accredited professional association of mediators or arbitrators;
- Representative of the general public with experience that the Council of Commissioners deems to be pertinent and adequate.

6.3.2 A call for nominations for a position on the Professional Conduct Review Committee will be posted in one or more local newspapers and on the school board website.

6.3.3 An honorarium will be paid to the members at a rate to be determined by the Audit Committee.

6.3.4 The members of the Professional Conduct Review Committee are subject to the obligations prescribed by the present Code of Ethics, with the necessary adaptations.

6.4 Operation

6.4.1 Receipt of complaint and date of session

- The Secretary General receives the written complaint, acknowledges receipt to the complainant and forwards the complaint to the Chairperson of the Professional Conduct Review Committee. When appropriate, he also sends, to the Chairperson of the Professional Conduct Review Committee, a copy of the commissioner's confidential file (see section 6.5.1);
- The Chairperson of the Professional Conduct Review Committee decides whether the complaint is admissible before starting the review process. If he deems the complaint inadmissible, he immediately informs the complainant and the Secretary General and closes the file;
- A complaint will be deemed inadmissible in the following cases:
 - the behavior or act contested does not contravene the present *Code of Ethics*;
 - the document does not constitute a complaint;
 - the document targets a person who is not a commissioner of the ETSB;
 - the document is anonymous;
 - the document is obviously frivolous;

- If the complaint is admissible, the Chairperson of the Professional Conduct Review Committee sets the date of the session no later than 20 days following the receipt of the complaint, unless the complainant or the commissioner is unable to attend for a valid reason. If the request is received by the Secretary General between the dates of the public meetings of the Council of Commissioners in June and August of a given year, the session of the Professional Conduct Review Committee must be held within 20 days following the August meeting of the Council of Commissioners of the same calendar year;
- The Chairperson convenes, in writing, the complainant, the commissioner affected by the complaint and any other relevant witness to a review session. The Chairperson may also convene a resource person.

6.4.2 Quorum

Two members, one of whom has to be the Chairperson, constitute the quorum of the Professional Conduct Review Committee.

6.4.3 Professional Conduct Review Session

- The Chairperson designates a recording secretary among the members to record the proceedings;
- The session and the deliberations of the members of the Professional Conduct Review Committee are done *in camera*;
- Each party and their witnesses, if there are any, are heard in turn, in the presence of the Professional Conduct Review Committee only;
- The complainant and his witnesses are heard first, followed by the commissioner and his witnesses;
- The interested parties may not be represented by a third party; they must represent themselves;
- The interested parties remain available during the entirety of the session and may be recalled to provide additional information;
- The Chairperson of the Professional Conduct Review Committee must ensure order during the session;
- Apart from the commissioner(s) affected by the complaint and the complainant, commissioners must refrain from getting involved in the Professional Conduct Review process.

6.4.4 Decision

- Within 30 days following the session, the Professional Conduct Review Committee renders its written decision and transmits it to the Secretary General. The Secretary General sends a copy of the decision to the complainant and the commissioner affected by the complaint;

- If the Professional Conduct Review Committee concludes that there has been a breach, it decides upon the appropriate sanction, among the sanctions listed under section 6.5.1.

6.4.5 Contravention to this Code of Ethics

- Should a member of the Professional Conduct Review Committee contravene the present *Code of Ethics*, he will be immediately removed from the Professional Conduct Review Committee by the Council of Commissioners and replaced with an alternate;
- If the Professional Conduct Review Committee fails to render its decision within the time limit provided for in section 6.4.4 of the present *Code of Ethics*, it will lose its jurisdiction over the complaint and be replaced with a new Professional Conduct Review Committee by the Council of Commissioners, without delay. This new Professional Conduct Review Committee will deal with the complaint with the utmost diligence.

6.5 Enforcement mechanisms

6.5.1 Sanctions

The Professional Conduct Review Committee may consider the following sanctions and may decide to impose more than one sanction concurrently:

- Admonition: confidential letter written to the commissioner and sent to the Secretary General to be filed in the commissioner's confidential file;
- Censure: letter of admonition shared with the Council of Commissioners in an *in camera* session;
- Request for an apology
- Revocation of committee membership/attendance privileges
- Withdrawal of school board services (mail, computer, etc.)
- Public reprimand: admonition read at a public Council of Commissioners' meeting;
- Suspension, for a maximum of six months, of part or all of the attributions and functions of a commissioner, except the right to participate and vote in the public meetings of the Council of Commissioners and in the meetings of the Executive Committee and of the Transportation Advisory Committee.

The Professional Conduct Review Committee may also recommend to the Council of Commissioners that an action to declare the commissioner disqualified be taken in accordance with section 308 of the *Act Respecting Elections and Referendums in Municipalities*.

6.5.2 Enforcement

The Professional Conduct Review Committee enforces the sanctions. It also informs the Council of Commissioners and the Secretary General of the enforced sanctions and the name of the affected commissioner(s) by the following Council of Commissioners' meeting.

The Council of commissioners is not informed of an inadmissible complaint or when a complaint is rejected, apart from what is provided for in section 6.5.3.

6.5.3 Publication

By September 30 of each year, the Professional Conduct Review Committee submits an annual report to the Governance and Ethics Advisory Committee *in camera* and to the Secretary General, stating the number of complaints rejected as inadmissible, the number of complaints treated by the committee, the violations observed, if any, the decisions rendered and the sanctions imposed during the school year ending on June 30th of the same year.

7. **ACCESSIBILITY OF CODE**

The *Code of Ethics and Professional Conduct for the Commissioners of the Eastern Townships School Board* may be examined at the office of the Secretary General and on the school board's website. Printed copies will be supplied at cost upon demand.

8. **ABROGATION**

The present By-Law replaces By-Law number 3 adopted on September 18, 1998.

9. **COMING INTO FORCE**

This By-Law comes into force upon public notice to this effect.

For the purpose of this By-Law, the masculine form is used without discrimination and refers also to the feminine form.

APPENDIX A

CONFIDENTIALITY OF INFORMATION DISCUSSED DURING MEETINGS

Section 5.2 of the *Code of Ethics and Professional Conduct for the Commissioners of the Eastern Townships School Board* provides that:

A commissioner must demonstrate absolute discretion, both during and after his term of office, and must respect the confidential nature of the information obtained, particularly the information disclosed during meetings held in camera. The form entitled Confidentiality of Information Discussed During Meetings (Appendix A) will be signed by a commissioner when he's elected or reelected and given to the Secretary General.

As regards contracts or agreements to be negotiated or concluded with the school board, a commissioner shall not use the information obtained in the exercise of his duties to derive a benefit to which he is not entitled or to which his close relations are not entitled.

On September 25, 2001, the Council of Commissioners adopted the Eastern Townships School Board's ("ETSB") *Communications Policy*. The policy states:

All communications must respect the confidentiality of information that, if disclosed, could be prejudicial to the best interests of our students, staff, parent volunteers and committee members. All participants in the education process must realize that in many ways they are entrusted with confidential information and that their individual right to disclose such information is limited. The principle of confidentiality toward students, staff, parent volunteers and committee members shall be respected at all levels of communications, from official documentation down to casual conversation.

Furthermore, section 2088 of the *Civil Code of Québec* defines obligations for employees as regards confidential information:

Art. 2088. The employee is bound not only to carry on his work with prudence and diligence, but also to act faithfully and honestly and not to use any confidential information he may obtain in carrying on or in the course of his work.

These obligations continue for a reasonable time after cessation of the contract, and permanently where the information concerns the reputation and private life of another person.

In order to better ensure that the confidentiality of certain information is protected, the ETSB wishes to emphasize the obligations of commissioners and personnel, from the management personnel to the teachers, professionals and support staff, as regards confidentiality of information. The signing of a confidentiality agreement by commissioners, administrators (board, schools and centres) and recording secretaries is the starting point of this process.

In the following Confidentiality Agreement, the expression “confidential information” includes, but is not limited to, information identified as confidential and information that is deemed confidential by its nature, such as nominative information, information pertaining to personnel or individual students and certain financial information.

CONFIDENTIALITY AGREEMENT

I, the undersigned, hereby acknowledge that, due to my participation in or presence at *in camera* sessions of Council of Commissioners meetings, Executive Committee meetings, School Board Advisory Committee meetings and Management Table meetings (collectively called “the meetings”), I have received and will receive confidential information pertaining to personnel, activities and operations, past, present and future, of the ETSB.

I acknowledge that the disclosure of such confidential information could be prejudicial to the ETSB and contrary to its interest. Accordingly, I agree to respect the confidentiality of this information.

Moreover, should my involvement in the meetings terminate, I undertake not to make any use of such information for any purpose whatsoever. This undertaking shall continue to have full effect, notwithstanding the end of my participation in the meetings.

I understand that the ETSB takes the obligation to respect confidential information very seriously. Should I breach the present agreement, I understand that there will be consequences.

This undertaking is effective as of the date of signature.

I agree that the present agreement be drafted in the English language.
J'accepte que la présente entente soit rédigée en langue anglaise.

Signed in _____, Quebec, on this ____ day of _____ 200_.

Please print name

Signature

APPENDIX B

DECLARATION OF A COMMISSIONER OR PARENT-COMMISSIONER

(REF.: BY-LAW NO. 3 – CODE OF ETHICS AND PROFESSIONAL CONDUCT FOR THE COMMISSIONERS OF THE EASTERN TOWNSHIPS SCHOOL BOARD)

School Year: _____

I, _____, hereby declare that the following situations or relationships may create a conflict of interest with my function as commissioner or parent-commissioner of the Eastern Townships School Board.

a) Situations that may give rise to conflict (interests in a corporation, professional activities, employment, other councils or boards on which I sit or any other activity or affiliation):

b) Relationships that may give rise to conflict (a commissioner’s link to a close relation employed by the school board does not need to be declared):

Signed at _____, Quebec, this ____ day of _____ 200_.

Please print name

Signature