



**DISTRICT EDUCATION COUNCIL OF THE  
ANGLOPHONE SOUTH SCHOOL DISTRICT**

**MEMBERS' CODE OF CONDUCT**

**ADOPTED SEPTEMBER 10, 2014**

## 1. General

### 1.1 In this Code of Conduct:

“ASD-DEC” means the District Education Council of the Anglophone South School District;

“*Code of Conduct*” means this Code of Conduct, as amended from time to time;

“Confidential Information” means, but is not limited to, legal matters (including communications with counsel, legal opinions and litigation strategies), personnel matters, disciplinary matters, complaints of violations of the *Code of Conduct* (including the existence or investigation thereof) and contents of *in camera* discussions or closed meetings.

“Designate” means a third party appointed pursuant to paragraph 5.7 to review, investigate and report on any alleged violation(s) of the *Code of Conduct*;

“Designate’s Report” means a written report of a Designate’s findings, conclusions and recommendations made pursuant to paragraph 5.11;

“District” means the Anglophone South School District;

“*Education Act*” means the *Education Act*, S.N.B. 1997, c.E-1.12, as amended from time to time;

“*Governance Structure Regulation*” means the *Governance Structure Regulation – Education Act*, N.B. Reg. 2001-48, as amended from time to time;

“*Human Rights Act*” means the *Human Rights Act*, R.S.N.B. 2011, c.171;

“Meeting” means a closed meeting of the ASD-DEC convened to consider any alleged violation(s) of the *Code of Conduct* constituted pursuant to paragraph 5.12;

“Member” means a Member in good standing of the ASD-DEC.

1.2 It is the responsibility of the ASD-DEC to establish objectives and policies aimed at addressing the particular priorities and needs of the District. The ASD-DEC is similarly responsible for developing policies which govern the business of the ASD-DEC, including the conduct of its members and the operation of District schools in the areas of education, school performance and infrastructure.

1.3 Each Member is responsible for contributing to the decisions and responsibilities of the ASD-DEC as a whole.

1.4 Members shall comply with the provisions governing a Member’s conduct contained in, or incorporated by reference in, the *Code of Conduct*.

- 1.5 Members shall comply with the provisions of the *Education Act* and any regulation made thereunder. Specifically, Members shall comply with Section 40 of the *Education Act* which requires that every member of a District Education Council:
  - (a) exercise his or her duties under the *Education Act* in good faith;
  - (b) comply with the *Education Act* and the regulations made under it; and
  - (c) refrain from exercising individual influence or authority over the superintendent of the school district or over other school personnel.
- 1.6 Members shall comply with all other legislation, regulations, rules and policies which apply to Department of Education, its employees and volunteers.
- 1.7 Members shall at all times uphold the dignity and rights of individuals in accordance with the *Human Rights Act* and the *Canadian Charter of Rights and Freedoms*.
- 1.8 Every Member agrees and acknowledges that a failure to comply with the *Code of Conduct*, other applicable Department of Education rules and policies or other legislation and regulations incorporated by reference herein may also constitute a failure to exercise his or her duties under the *Education Act* in good faith as required by paragraph 40(a) of the *Education Act*.
- 1.9 Members acknowledge that acting, either willfully or negligently, in contravention of the *Education Act* will, if declared by resolution of the ASD-DEC to have occurred, result in their position being deemed to be vacant.
- 1.10 Any questions or concerns regarding the nature and scope of ASD-DEC's responsibilities or obligations and/or a Member's responsibilities or obligations under the *Code of Conduct* should be brought to the Chairperson, who will advise the Member after seeking such legal or policy advice as may be necessary in the circumstances.

## **2. Professional Conduct and Decorum**

- 2.1 Members shall be committed to the common purpose of guiding and advancing the education of all students in the District. ASD-DEC members have a responsibility to act in the best interests of the District and its students.
- 2.2 Members shall carry out their duties in accordance with the oath of office taken at the commencement of their mandate pursuant to section 24 of the *Governance Structure Regulation*, the current form of which is attached hereto as Appendix "A".
- 2.3 Members shall exercise good judgment in fulfilling their duties and carry out their duties in a professional, honest and appropriate manner. Members must lead by example and always demonstrate fair and respectful treatment of other Members, students, parents, staff and the community at large.
- 2.4 Members are expected to be familiar with the *District Education Council Handbook*, as amended or replaced from time to time, a copy of the current form of which is attached hereto as Appendix "B" and specifically the section therein regarding meeting procedures. Members must strive to conduct themselves in accordance with these provisions.
- 2.5 Members shall ensure that meeting times are used efficiently. Members shall arrive on time, having carefully reviewed materials circulated in advance, with comments and submissions prepared.
- 2.6 Members are encouraged to bring forward ideas, opinions and information relevant to the agenda of the ASD-DEC meetings. Members shall demonstrate a commitment to a collaborative work environment which encourages the respectful expression and exchange of ideas. Members shall support the decisions made and positions reached by the ASD-DEC even though these may not always be entirely consistent with the views or ideas of individual Members.
- 2.7 The ASD-DEC will use individual Members' expertise to enhance the ability of the ASD-DEC, but will not rely on an individual's judgment as a substitute for making an informed decision as a council.
- 2.8 Members have a responsibility to consider how decisions and actions will impact the education of students, Parent School Support Committees and District personnel.
- 2.9 The ASD-DEC will endeavor to make decisions by consensus; striving to reach a decision which is acceptable to all Members. Decisions will be made by majority vote when a consensus is not possible.
- 2.10 Members must not undermine decisions reached by the ASD-DEC. Members who have a good faith and legitimate reason to oppose a decision may only use the recognized and appropriate process to have any decision challenged or reconsidered.
- 2.11 Members shall not disclose Confidential Information and shall hold same in the strictest confidence. Members also specifically acknowledge they are bound by the Department of Education's confidentiality policies relating to personal information, reports, email and passwords.

### **3. Representing the ASD-DEC and Encouraging Public Confidence**

- 3.1 While many voices contribute to the decisions of the ASD-DEC, the ASD-DEC operates with a single voice. The Chairperson (or the Vice-Chairperson in lieu) is the public representative of the ASD-DEC and shall serve as its public spokesperson in the absence of a specific delegation or authorization to a Member in a given situation.
- 3.2 The ASD-DEC has a shared responsibility with the Department of Education, the District, the schools, the parents and the community to advance education and foster a positive learning environment for the students. Members will strive to work collaboratively and respectfully with these partners.
- 3.3 Members shall strive to undertake their duties in a manner that will foster public confidence in the ASD-DEC and the education system as a whole.
- 3.4 To avoid a public perception of influence, Members cannot accept or solicit gifts or personal benefits as a result of their position unless approved by the ASD-DEC. This excludes incidental gifts, customary hospitality or other benefits of nominal value.
- 3.5 Members shall be committed to the proper use of their authority. Members acknowledge and agree that:
  - (a) individual Members do not have authority over staff, unless clearly and expressly granted by the ASD-DEC;
  - (b) while the ASD-DEC expects Members to be given common courtesy, this expectation does not require the Superintendent to heed any individual Member's opinion or instruction; and
  - (c) regardless of any individual dissent from a decision of the ASD-DEC, Members shall recognize that the Superintendent is bound only by direction given from the ASD-DEC as a whole.

#### **4. Conflict of Interest**

- 4.1 Members must be diligent and at all times aware of the potential for a conflict of interest as described in section 33 of the *Governance Structure Regulation*. Members shall avoid situations where personal, family or business interests could conflict with the interests of the ASD-DEC. Members shall immediately report any personal or financial interest which may influence, or could reasonably appear to influence, their decisions and actions to the Chairperson. The Chairperson shall report any such interests to the Vice-Chairperson.
- 4.2 Members shall comply with the Department of Education's Conflict of Interest Policy, as amended or replaced from time to time, a copy of the current form of which is attached hereto as Appendix "C".
- 4.3 The resolution of a conflict of interest may require a Member to withdraw from a discussion or a meeting, refrain from voting on an issue or terminate the relationship or circumstance creating the conflict or potential conflict. In situations where there is a persistent conflict, a Member may be required to resign their position.
- 4.4 Subject to the Department of Education's Conflict of Interest Policy, where a potential conflict has been declared, the ASD-DEC may allow the conflict or potential conflict to continue, provided it is minor in nature, complete disclosure has been made and will not interfere with public confidence or impact the independence of the ASD-DEC.
- 4.5 If a conflict of interest is discovered after a decision is made, the decision is voidable, but not automatically void. The matter will be reviewed by the ASD-DEC as soon as practical and a reconsideration of the decision made with whatever steps taken necessary to eliminate the conflict of interest as the ASD-DEC deems necessary in the public interest.
- 4.6 Upon determining that a conflict of interest may have existed, the ASD-DEC reserves the right to have any matter entered into, or any action taken, set aside, revoked or rescinded.

## 5. Enforcement

- 5.1 Members shall be committed to the provisions of the *Code of Conduct*. Known or suspected violations of the *Code of Conduct* or other relevant legislation, policies or procedures incorporated by reference therein shall be reported to the Chairperson. Failure to report a known or suspected violation shall, in itself, constitute a violation of the *Code of Conduct*.
- 5.2 Potential violations must be reported in writing on the form prescribed for that purpose as amended from time to time, a copy of the current form of which is attached hereto as Appendix "D". While the complaint cannot be made anonymously, the Chairperson is authorized to decide if the name of the complainant will be disclosed.
- 5.3 Only a Member has standing to initiate a complaint under the *Code of Conduct*.
- 5.4 Complaints will be reviewed and considered as promptly and fairly as reasonably possible.
- 5.5 Upon receiving a written complaint, the Chairperson shall:
- (a) notify the Member who is the subject of the complaint of the allegations made therein; and
  - (b) review the written complaint as filed.
- 5.6 If, after conducting their initial review, the Chairperson concludes that the complaint, as filed, is:
- (a) devoid of merit;
  - (b) the alleged violation references an action or conduct that, even if committed, is clearly not a matter covered by the *Code of Conduct* or other relevant legislation, policies or procedures; and/or
  - (c) is frivolous, vexatious or made for improper purpose.
- the Chairperson shall dismiss the complaint.
- 5.7 If after conducting their initial review, the complaint is not summarily dismissed by the Chairperson, the ASD-DEC shall refer the complaint to a Designate acceptable to a majority of the total number of Members.
- 5.8 Upon receipt of a request to so act, the Designate shall:
- (a) confirm their willingness to do so in writing to the Chairperson;
  - (b) meet with the Member who made the complaint to obtain whatever additional information and documentation, as well as receive whatever submissions or commentary the complainant wishes to provide;
  - (c) meet with the Member who is the subject of the complaint to obtain whatever information and documentation, as well as receive whatever submissions or commentary the Member who is the subject of the complaint wishes to provide; and;

- (d) meet with, speak to or otherwise communicate with any others who might have knowledge of the subject matter of the complaint as the Designate, in their sole discretion, feels is fair and appropriate in the circumstances.
- 5.9 After completing their review and determining their initial position, the Designate shall meet with the Member who is the subject of the complaint a second time, advise the said Member of the Designate's initial conclusions and give the said Member reasonable opportunity to provide any additional relevant information, documentation or commentary.
  - 5.10 If either the Member who made the complaint or the Member who is the subject of the complaint neglects or refuses to meet with the Designate as requested, the Designate may, after reasonable attempts to facilitate such meeting, proceed with their review regardless.
  - 5.11 After meeting with the Member who is the subject of the complaint a second time, the Designate shall prepare a written report summarizing the complaint review process, complete with their findings, conclusions and recommendations, including their view as to whether a violation has occurred and, if so, a recommendation for the sanction to be imposed, if any.
  - 5.12 The Designate's Report shall be sent to the Chairperson who, upon receipt, shall schedule a closed meeting of the ASD-DEC to consider the complaint and shall circulate a copy of the Designate's Report in confidence to all Members no later than five days prior to the date of the Meeting.
  - 5.13 The Designate shall attend the Meeting and shall review the process followed to consider the complaint as well as their findings, conclusions and recommendations. The Designate shall also address any questions posed or points raised by any Members present, including the Member who is the subject of the complaint.
  - 5.14 The Member who is the subject of the complaint shall be invited and encouraged to attend the Meeting, but if he or she neglects or refuses to attend without reasonable excuse, the ASD-DEC may make a finding with respect to the validity of the complaint and impose any resulting sanction in the Member's absence.
  - 5.15 At the Meeting the Member who is the subject of the complaint shall be given reasonable opportunity to provide any relevant additional information, documentation and commentary as well as provide their view as to what sanction may be appropriate should the ASD-DEC find that a violation occurred.
  - 5.16 At the conclusion of the Meeting, the ASD-DEC shall, by resolution of the majority of Members present, make a finding as to whether the alleged violation has occurred and by separate resolution of the majority of the Members present, determine the resulting sanction to be imposed, if any.
  - 5.17 Where sanction is deemed appropriate, the ASD-DEC may exercise one or more of the following options:
    - (a) a letter of reprimand;
    - (b) a suspension for a period not exceeding three months; and

- (c) a declaration that the Member has acted willfully or negligently in contravention of the *Education Act*.
    - (i) As per section 1.9 “Members acknowledge that acting, either willfully or negligently, in contravention of the *Education Act* will, if declared by resolution of the ASD-DEC to have occurred, result in their position being deemed to be vacant.”
- 5.18 A finding of the ASD-DEC on whether a violation has occurred and the imposition of any resulting sanction is final and not subject to reconsideration or appeal.
- 5.19 While the fact a complaint has been filed, the details of the investigation and the resulting deliberations are to be held in strict confidence, if the outcome of the Meeting is a finding that a violation of the *Code of Conduct* has occurred, the result will be made public in an open session of the ASD-DEC by reading any resolutions passed during the Meeting into the record.
- 5.20 A decision of the validity of a complaint or any sanction to be imposed may only be made if not less than 70% of Members are present at the Meeting.
- 5.21 If a complaint is either made by, or alleges a violation of the *Code of Conduct* by, the Chairperson, it shall be submitted to the Vice-Chairperson, who shall thereafter assume the Chairperson’s normal role in the complaint process. If a complaint alleges a violation of the *Code of Conduct* by both the Chairperson and the Vice-Chairperson, the matter will be considered by the ASD-DEC at a closed meeting and a Member selected to assume the Chairperson’s normal role in the complaint process.