

**School District #62 (Sooke)**

<b>Complaints Regarding Individual Trustees</b>	No.: A-355
	Effective: Jan. 28, 2020 Revised: Reviewed: Dec. 10/19; Jan. 28/2020

**PROCEDURAL REGULATIONS**

Trustees owe fiduciary obligations to the Board, and must discharge their duties in a manner which is consistent with the School Trustee Oath of Office, and the Duties of Trustees established in the Board Governance Bylaw. Where it is alleged that a Trustee has acted in a manner inconsistent with these obligations, the principles and processes outlined in this Regulation shall govern.

- 1.0 The Obligation to Act Fairly
  - 1.1 When a complaint is made concerning a trustee’s actions, the trustee will be entitled to procedural fairness, including:
    - An opportunity to know/be made aware of the allegations,
    - An opportunity to examine any relevant documents,
    - An opportunity to obtain legal advice, and
    - An opportunity to respond to the allegations prior to any disciplinary action being taken by the Board of Education.
- 2.0 Complaints:
  - 2.1 Complaints may be resolved either through informal or formal resolution processes.
  - 2.2 Resolving complaints directly between the parties involved is a preferred course of action.
  - 2.3 Anonymous complaints will not be considered by the Board, however, the Board Chair/Superintendent will not disclose the identity of a complainant, unless disclosure is required in order to ensure a fair investigation.
  - 2.4 Proceedings under this Policy are private and confidential. The Board will act at all times in a manner consistent with its obligations under the *Freedom of Information and Protection of Privacy Act*.
- 3.0 Informal Resolution Process:
  - 3.1 Individuals are encouraged to use informal means first to address trustee conduct concerns related to the Oath of Office or Board Bylaw.
  - 3.2 With the consent of the complainant and the trustee, the Board Chair or Superintendent may be part of the informal process.
  - 3.3 Individuals may address their concerns as follows:
    - 3.3.1 Advise the trustee that their conduct contravenes the Oath of Office or Board Bylaw with an explanation as to why.
    - 3.3.2 Encourage the trustee to stop the behaviour and confirm with the trustee satisfaction or dissatisfaction with response.
    - 3.3.3 Keep a record of the discussion with the trustee, including time, dates, locations, others present and witnesses to the behaviour.
    - 3.3.4 The complainant may still choose to make a formal complaint to the Board after an informal complaint process.
    - 3.3.5 The informal complaint process is encouraged, however it is not required prior to beginning the formal complaint process.

#### 4.0 Formal Resolution Process:

##### 4.1 Reporting the Allegation to the Board:

- 4.1.1 Individuals wishing to make a formal complaint to the Board regarding the conduct of an individual trustee, must do so in writing on the prescribed *Trustee Complaint Form* (see appendix).
- 4.1.2 All formal written complaints shall be signed by an identifiable individual.
- 4.1.3 Formal written complaints shall be provided to the Board Chair, unless the complaint relates to the Board Chair and then to the Vice-Chair, and Superintendent.
- 4.1.4 The written complaint shall identify the specific actions which are alleged to contravene the School Trustee Oath of Office, or Board Governance Bylaw.
- 4.1.5 Complaints must be made within thirty (30) days of complainant becoming aware of the alleged violation.
- 4.1.6 Upon receipt of a formal written complaint, the Board Chair, in consultation with the Superintendent will determine whether the complaint alleges a breach of the Trustee Oath of Office or Board Governance Bylaw. If it is determined that the complaint does not relate to a breach of the Oath of Office or Board Governance Bylaw, the Board Chair shall advise the complainant that their complaint will not be dealt with under this Policy, and will direct them to the appropriate (if any) complaint resolution process.
- 4.1.7 Should the Board Chair, in consultation with the Superintendent determine that a complaint is appropriately dealt with under this Policy, the matter will then be brought to the Board at an in-camera meeting. where The Board will conduct a preliminary review of the complaint and shall determine whether to:
  - dismiss the complaint,
  - refer the complaint for further investigation [see section 4.2], or
  - refer the matter to a special closed meeting of the Board to determine whether disciplinary action is warranted, in accordance with section 5.0 below
- 4.1.8 The Board Chair and/or Board may seek legal advice in relation to the complaint and Board proceedings.

##### **4.2 Investigation**

- 4.2.1 In the event the Board determines that there is a need to obtain additional information regarding the allegation(s), it may direct that the matter be referred for investigation.
- 4.2.2 The Board shall appoint an independent third party to conduct the investigation.
- 4.2.3 The investigator shall gather all relevant information and documents pertaining to the allegation(s), and shall prepare a report to the Board summarizing the relevant facts and attaching relevant documentation. No recommendations shall be made, and any disputed facts will be identified. Where facts are disputed, no findings will be made other than to identify the nature of the dispute.
- 4.2.4 Upon receipt of the report, the Board, in closed session, shall determine whether it is appropriate to convene a formal disciplinary hearing into the matter in accordance with the process outlined below.

## **5.0 Disciplinary Hearing Process**

- 5.1 The accused trustee will be advised that the matter will be placed on the agenda of an in-camera meeting of the Board and that the trustee will be entitled to be present at the meeting, with representation if so desired, to address the Board regarding the matter.
- 5.2 A minimum of 14 days notice shall be provided to the trustee, prior to any disciplinary hearing. Such notice will include information regarding the factual basis for the allegation, and any relevant documentation, including any investigation report. The notification shall also contain the range of disciplinary actions which the Board may undertake.
- 5.3 Meeting Procedure:
  - 5.3.1 Allegations shall be formally stated by the Board Chair.
  - 5.3.2 The Chair will invite the accused trustee to respond to the allegation and contemplated discipline.
  - 5.3.3 Trustees may be allowed to ask questions of the accused trustee through the Board Chair.
  - 5.3.4 Once the accused trustee has responded to the allegations and any trustee questions have been asked, the accused trustee will be excused from the meeting while the Board considers three questions:
    - 1) Whether the facts alleged in the complaint occurred, and whether these facts disclose a breach of the Oath of Office or Board Governance Policy;
    - 2) If the Board is satisfied that misconduct did occur, is disciplinary action required?;
    - 3) If disciplinary action is justified, what form of disciplinary action should be taken? This may include a formal reprimand, public censure, or a partial or full suspension of duties.
  - 5.3.5 The Board will record the proceedings of the disciplinary hearing as it would under procedural bylaws for in-camera meetings.
  - 5.3.6 Any public statement regarding disciplinary action shall be limited to a general description of the nature of the breach found to have occurred, and the nature of the sanction imposed.

School District #62 (Sooke)
Policy A-355 "Complaints Against a Trustee"
Formal Complaint Form

Name of Complainant: \_\_\_\_\_
Address: \_\_\_\_\_

Nature of Complaint: \_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

STATE THE FOLLOWING:

1. I believe that: \_\_\_\_\_
(specify name of Trustee) a member of the Sooke Board of Education, has
contravened Section(s) \_\_\_\_\_
(specify section(s) of the Oath of Office or Board Bylaw)

The particulars of which are as follows on attached Schedule "A":
(Set out the statements of fact in consecutively numbered paragraphs on the attached Schedule
"A", with each paragraph being confined, as far as possible, to a particular statement of fact. If you
wish to include exhibits to support this complaint, please refer to the exhibits as Exhibit A, B, etc.
and attach them to this form.)

DATED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_, at the City/Town of
\_\_\_\_\_ in the Province of British Columbia.

\_\_\_\_\_  
(signature of person making the complaint)

