



## **CODE OF CONDUCT - TRUSTEES**

**POLICY #: C-8**

**AUTHORITY: 11- 60**

### **POLICY STATEMENT**

Whereas the aim of Catholic Education is the development of each student toward personal fulfillment and responsible citizenship motivated by the Spirit of the Gospel and modeled on the example of Jesus Christ, the Catholic School Trustee shall, within the duties prescribed in Acts and Regulations and reflecting a ministry within the church:

- (a) acknowledge that Catholic schools are an expression of the teaching mission of the Church;
- (b) provide an example to the Catholic Community by active participation in the communal life of a parish, and by a personal lifestyle that reflects the teaching of the Church;
- (c) provide the best possible Catholic education according to the programs approved by the Canadian Conference of Catholic Bishops and the provincial Minister of Education;
- (d) affirm a strong sense of Christian Catholic Community; and
- (e) provide support, encouragement and prayer for the efforts of all persons engaged in the ministry of Catholic Education in Canada.

The Members of the Northeastern Catholic District School Board of Trustees occupy positions of public trust and confidence. They are expected to discharge their duties and responsibilities in a professional, impartial and Catholic manner.

It is imperative that the Trustees be, and be seen to be acting in the best interests of the public they serve.

Without limiting the generality of the foregoing, a Trustee would compromise themselves in the discharge of their duties by failing to declare a conflict of interest as required pursuant to the *Municipal Conflict of Interest Act*, by contravening any other law, by disclosing confidential business, personnel or student information and by misappropriating board resources.

This Code of Conduct and accompanying Regulation is applicable to all Members of the Board of Trustees.

## POLICY REGULATIONS

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### Decorum

Trustees shall at all times act with decorum and shall be respectful of other trustees and members of staff, as well as the public.

Trustees will conduct themselves in accordance with this Code of Conduct, and the Provincial Code of Conduct, including the following principles of decorum:

No personal use of handheld electronic devices during any meeting of the board or committee other than an emergency.

Trustees will conduct themselves in accordance with the Procedural Bylaw of the NCDSB, this Code of Conduct and the Provincial Code of Conduct, including the following principles of decorum.

Subject to the duty of a Trustee under section 218.1(e) of the *Education Act* to uphold the implementation of any board resolution after it is passed by the Board of Trustees, a Trustee may comment on, or disagree with, a decision taken by the Board of Trustees. A Trustee may not make disparaging remarks about a Trustee or a group of Trustees in expressing such comment or disagreement or speculate on the motives of a Trustee or a group of Trustees.

Any Trustee who resists the rules of the Board, uses offensive language, disobeys the decisions of the Chair or the Board on points of order, or makes any disorderly noise or disturbance may, unless an apology is offered, be ordered by the Chair to leave for the remainder of the meeting, and in the case of a refusal to do so, may, on the order of the Chair, be removed from the Boardroom and Board Office. Such a removal will be recorded in the Minutes of the meeting. (See section 207(3) of the *Education Act*).

### Complying with the Law

All Trustees will and will be seen to comply with the letter and spirit of all of the laws of Canada and the Province of Ontario and any contractual obligations of the Board.

The Trustees acknowledge they may only act on behalf of the Board as a Board of Trustees through resolution and may not act individually or purport to represent the interests of the Board without the knowledge and consent of the Board of Trustees.

It is every Trustee's responsibility to ensure that all information they communicate in the course of their duties is accurate and complete.

It is every Trustee's responsibility to familiarize themselves with their duties and any requirements of them as prescribed by the *Education Act*, and Regulations, the *Municipal Freedom of Information and Protection of Privacy Act* and Regulations, the *Municipal Conflict of Interest Act* and any other Act or Regulation that may be applicable to the Trustee's duties from time to time, and/or Ministry of Education requirements and the Board's **Bylaws, Policies and General Administrative Procedures**.

### **Specific Requirements under Part VI of the Education Act**

(As amended effective December 15, 2009, by Bill 177 – An Act to amend the Education Act with respect to student achievement, school board governance and certain other matters)

All Trustees are expected to comply with the following duties of board members as set out in section 218.1 of the *Education Act*:

"A member of a board shall,

- (a) carry out his or her responsibilities in a manner that assists the board in fulfilling its duties under this Act, the regulations and the guidelines issued under this Act, including but not limited to the board's duties under section 169.1;
- (b) attend and participate in meetings of the board, including meetings of board committees of which he or she is a member;
- (c) consult with parents, students and supporters of the board on the board's multi-year plan under clause 169.1(1)(f);
- (d) bring concerns of parents, students and supporters of the board to the attention of the Director;
- (e) uphold the implementation of any board resolution after it is passed by the board;
- (f) entrust the day to day management of the board to its staff through the board's Director of Education;
- (g) maintain focus on student achievement and well-being [through the development of policies]; and
- (h) comply with the board's code of conduct."

**Additional Duties of the Chair**

In addition to the duties of Trustees set out in section 218.1 of the *Education Act*, the Chair of the board is expected to comply with the additional duties set out in s. 218.4 of the Act:

"In addition to any other duties under the Act, the chair of a board shall,

- (a) preside over meetings of the board;
- (b) conduct the meetings in accordance with the board's procedures and practices for the conduct of board meetings;
- (c) establish agendas for board meetings, in consultation with the board's director of education or the supervisory officer acting as the board's Director of Education [an Associate Director may act as Secretary to the Board in the absence of the Director];
- (d) ensure that members of the board have the information needed for informed discussion of the agenda items;
- (e) act as spokesperson to the public on behalf of the board, unless otherwise determined by the board;
- (f) convey the decisions of the board to the board's Director of Education;
- (g) provide leadership to the board in maintaining the board's focus on the multi-year plan established under section 169.1;
- (h) provide leadership to the board in maintaining the board's focus on the board's mission and vision; and
- (i) assume such other responsibilities as may be specified by the board."

## Conflict of Interest

All Trustees are expected to comply with the *Municipal Conflict of Interest Act*, R.S.O., 1990, c. M-50 provisions, attached as Appendix A, which requires that Trustees declare and disclose the general nature of the interest for all direct and indirect pecuniary conflicts of interest and abstain from making a decision.

In all situations where a Trustee or their spouse, child or parent has a pecuniary interest in a matter before the Board that Trustee must declare a conflict of interest, disclose the general nature of the interest, and abstain from discussions and voting with respect to that issue.

Where such conflict of interest arises during an in -camera session of the Board, the Trustee must absent themselves from the room during discussion and deliberation of the issue for which they have a conflict.

It is an expectation of the Board that Trustees will not only comply with the requirements of the *Municipal Conflict of Interest Act*, but also avoid conflicts of interest as defined by this Code of Conduct.

Pursuant to this Code of Conduct a conflict of interest exists when the decisions and/or actions of a Trustee during the course of exercising their duties are affected by or perceived by another party or person to be affected by the Trustee's personal, financial or business interests or the personal, financial or business interests of a relative, friend, and/or business associate of the Trustee.

Every Trustee is responsible and accountable for exercising good judgment and avoiding situations that might present a conflict of interest or the appearance of a conflict of interest and where a conflict of interest might exist each Trustee has an affirmative duty to disclose such conflict when it becomes apparent.

No Trustee shall use their position, authority or influence for personal, financial or material gain or personal business purposes or for the personal, financial or material gain or business purposes of a relative, friend and/or business associate. Every Trustee shall uphold and enhance all Board business operations by:

- (i) Maintaining an unimpeachable standard of integrity in all their relationships, both inside and outside the Board;
- (ii) Fostering the highest standard of professional competence amongst those for whom they are responsible;
- (iii) Complying with and being seen to be complying with the letter and spirit of:
  - The laws of Canada and the Province of Ontario,
  - Contractual obligations applicable to the Board; and
- (iv) Rejecting and denouncing any business practice that is improper or inappropriate or may appear to be improper or inappropriate.

A Trustee shall not use their position, authority or influence to give any person or organization special treatment that might, or might be perceived to, advance the interests of the Trustee, or the interests of a relative, friend and/or business associate of the Trustee.

A Trustee must not participate in any decision or recommendation in which they or a relative, friend or business associate may have a financial, commercial or business interest.

All Trustees shall disclose a conflict of interest or potential conflict of interest, and the general nature of the interest, to the Board of Trustees.

### **Confidentiality**

All Trustees acknowledge that as part of their duties to the Board they may be privy to private, confidential and/or legally privileged financial, business and/or commercial information belonging to the Board that may provide a financial, business, commercial or competitive advantage, and that they may be privy to private and confidential student and personnel information, and/or legal matters and opinions. Such information may include, but is not limited to, information relating to the Board's organizational structure, operations, business plans, technical projects, business costs, research data results, inventions, trade secrets or other work produced, developed by or for the Board.

Except as required by law, all Trustees and former Trustees agree not to use, directly or indirectly, for the Trustee's benefit or for the benefit of any person, organization, firm, or other entity, the Board's proprietary or confidential information disclosed or entrusted to that Trustee, and Trustees recognize that such inappropriate use of confidential information for their benefit may constitute a criminal breach of trust contrary to s.122 of the *Criminal Code* (Canada).

Except as required by law, and in accordance with the *Education Act* and *Municipal Freedom of Information and Protection of Privacy Act*, all Trustees agree not to use or disclose the personal and/or educational information of students and their families that may come to the attention of such Trustee.

Except as required by law, and in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*, all Trustees agree not to use or disclose the personal and/or employment information of Board employees and their families that may come to the attention of a Trustee.

A Trustee's duty of confidentiality with respect to private and confidential financial, business and/or commercial information, personnel information, student information, and legal matters and opinions survives their term as Trustee.

## Board Resources

No Trustee shall use Board resources for personal gain. No Trustee shall permit relatives, friends and/or business associates to use Board resources for personal gain. Trustees recognize that such inappropriate use of Board resources directly or indirectly for their benefit may constitute a criminal breach of trust contrary to s.122 of the *Criminal Code* (Canada).

All Trustees shall abide by Board Policies and General Administrative Procedures regarding the use of Board resources including information technology resources.

## Enforcement of Code of Conduct and the Municipal Conflict of Interest Act

In accordance with the provisions of section 218.3 of the *Education Act*, a breach of this Code of Conduct by a Trustee may be dealt by the following procedures:

A Trustee who has reasonable grounds to believe that another Trustee has breached this Code of Conduct may bring the alleged breach to the attention of the Board.

If an alleged breach is brought to the attention of the Board, the Board shall make inquiries into the matter and shall, based on the results of the inquiries, determine whether there has been a breach.

If the Board determines that a Trustee has breached this Code of Conduct, the Board may impose one or more of the following sanctions:

- (a) Censure of the Trustee.
- (b) Barring the Trustee from attending all or part of a meeting of the Board or a meeting of a committee of the Board.
- (c) Barring the Trustee from sitting on one or more committees of the Board, for the period of time specified by the Board.

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 the members of the public.

In appropriate circumstances, the Board may also resolve to disassociate the Board from any action or statement of a Trustee.

In addition to the sanctions above, the Board may declare the office of the Chair and/or Vice-Chair to be vacant effective as of the date of the Board's determination, where the Chair and/or Vice-Chair:

- (a) becomes disqualified as a Trustee;
- (b) deliberately breaches any relevant legislation or other Ministry of Education requirements

(c) deliberately breaches any Board By-Laws, Policies, General Administrative Procedures or practices; and/or

(d) acts in such a manner as to lose the confidence of the Board.

If a Board determines that a Trustee has breached this Code of Conduct, the Board shall give the Trustee written notice of the determination and of any sanction imposed by the Board.

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 14 days after the notice is received by the Trustee.

The Board shall consider any submissions made by the Trustee and shall confirm or revoke the determination within 14 days after the Trustee's submissions are received.

If the Board revokes a determination that a Trustee has breached this Code of Conduct, any sanction imposed by the Board is also revoked.

If the Board confirms a determination that a Trustee has breached this Code of Conduct, the Board shall, within 14 days after the Trustee's submissions were received, confirm, vary or revoke any sanction(s) imposed by the Board.

If a sanction is varied or revoked, the variation or revocation shall be deemed to be effective as of the date the original determination about the alleged breach was made by the Board.

Despite subsection 207(1) of the *Education Act* which requires meetings of the Board to be open to the public, but subject to the requirements below for specific resolutions of the Board to be made in public, the Board may close to the public the part of the meeting during which a breach or alleged breach of this Code of Conduct is considered when the breach or alleged breach involves any of the following matters:

(a) the security of the property of the Board;

(b) the disclosure of intimate, personal or financial information in respect of a Trustee or committee, an employee or prospective employee of the board or a student or his or her parent or guardian;

(c) the acquisition or disposal of a school site;

(d) decisions in respect of negotiations with employees of the board; or

(e) litigation affecting the board.



The Board shall do the following things by resolution at a meeting of the Board, and the vote on the resolution shall be open to the public:

- (a) Make a determination that a Trustee has breached this Code of Conduct.
- (b) Impose a sanction on a Trustee for a breach of this Code of Conduct.
- (c) Confirm or revoke a determination regarding a Trustee's breach of this Code of Conduct.
- (d) Confirm, vary or revoke a sanction after confirming or revoking a determination regarding a Trustee's breach of this Code of Conduct.

A Trustee who is alleged to have breached this Code of Conduct shall not vote on any of the resolutions listed above.

When a resolution listed above is passed, the resolution shall be recorded in the Minutes of the meeting.

The *Statutory Powers Procedure Act* does not apply to any the enforcement provisions under section 218.3 of the *Education Act*.

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*.

## **ADDITIONAL CLAUSES**

### **Declaration of Interest**

Where a conflict of interest arises, or when a potential conflict of interest emerges, the Trustee has a duty to inform the Board of Trustees that such a conflict exists, the general nature of the interest, and that they cannot participate in any decisions of the Board with respect to such issue. Further, the Trustee shall not discuss the issue with which they have a conflict with any Trustees, nor will the Trustee remain in the room when the issue is discussed during an in camera meeting of the Committee of the Whole Board of Trustees.

Any personal interest that may impinge or might reasonably be deemed by others to impinge on a Trustee's impartiality or judgment in any matter relevant to their duties should be declared to the Board of Trustees and that Trustee should absent themselves from participating in any decisions related to such issue.

### **Confidentiality and Accuracy of Business/Corporate Information**

The confidentiality of business/corporate information received in the course of duties must be respected and should not be used for personal gain. Information given in the course of fulfilling duties should be true and fair and not designed to mislead. For example, it is considered unethical and damaging to the Board's reputation to allow vendor's proprietary/confidential information to pass to another vendor, potential vendor or any person with a financial interest in the information, whether potential or actual, direct or indirect.

The confidentiality of personal/educational student and family information received in the course of duties must be respected, protected and kept confidential. Information received should not be discussed or reviewed in public or where another student, parent or member of the school community could accidentally overhear or read such information.

The confidentiality of personal/employment and family information about Board employees must be respected, protected and kept confidential. Information received should not be discussed or reviewed in public or where another employee or member of the public could accidentally overhear or read such information.

### **Hospitality and Gifts**

Moderate hospitality and gifts are an accepted courtesy of a business relationship. However, the recipients should not allow themselves to reach a position whereby they might be influenced in making a business decision as a consequence of accepting such hospitality.

#### **(i) Offering or Accepting Gifts & Hospitality**

Although the exchange of common courtesies, such as the occasional gift or meal of nominal value is recognized as acceptable business practice, there is a danger in offering or accepting hospitality, gifts, gratuities or favours that could be mistaken for improper payment.

Trustees should not use their position for improper gain, nor under any circumstances accept gifts of cash, bonds, securities, personal loans, airline tickets, use of a vacation property or costly entertainment.

#### **(ii) Conditions for Accepting Gifts & Hospitality**

A Trustee may accept the hospitality of another or gift from another, in the course of the professional relationship, if:

1. a Trustee believes that the donor is not trying to obligate them, or improperly influence a decision;
2. it is "normal business practice" for the purposes of courtesy and good business relations; and
3. acceptance is legal and consistent with generally accepted ethical standards.

(iii) Examples of Acceptable Gifts

Examples of acceptable gifts include:

1. Holiday gifts, such as fruit baskets or candy.
2. Inexpensive advertising and promotional materials (e.g. Give-a-ways, such as pens or key chains).
3. Inexpensive awards to recognize service and accomplishment in civic, charitable, educational or religious organizations (such as nominal gift certificates to book stores).

(iv) Gifts of Considerable Value

Where it would be extraordinarily impolite or otherwise inappropriate to refuse a gift of obvious value, the gift may be accepted on behalf of the Board. As noted under (v) Reporting Gifts. Such gifts may not be taken for the Trustee's home use or enjoyment. Trustees might ask themselves if public knowledge of the gift would cause personal embarrassment or embarrassment to the Board. If there is still uncertainty regarding what is considered an appropriate gift to give or receive, this should be discussed with the Chair/Vice-Chair, as appropriate.

(v) Reporting Gifts & Hospitality

Trustees must notify the Chair by email and the Chair must notify the Vice-Chair of any gifts and hospitality received including meals, over \$200.00. (A distinction could be made between hospitality and gifts, or there can be discretion with respect to the amount, rather than a set amount).

All forms (which are available from the office of the Director) will be retained in the Office of the Chief Executive Officer and Secretary to the Board.

## APPENDIX A

**Municipal Conflict of Interest Act**

R.S.O. 1990, CHAPTER M.50

**Consolidation Period:** From July 1, 2010 to the [e-Laws currency date](#).

Last amendment: 2009, c. 33, Sched. 21, s. 7.

## Definitions

**1.** In this Act,

“child” means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family; (“enfant”)

“controlling interest” means the interest that a person has in a corporation when the person beneficially owns, directly or indirectly, or exercises control or direction over, equity shares of the corporation carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding; (“intérêts majoritaires”)

“council” means the council of a municipality; (“conseil”)

“elector” means,

(a) in respect of a municipality, or a local board thereof, other than a school board, a person entitled to vote at a municipal election in the municipality, and

(b) in respect of a school board, a person entitled to vote at the election of members of the school board; (“électeur”)

“interest in common with electors generally” means a pecuniary interest in common with the electors within the area of jurisdiction and, where the matter under consideration affects only part of the area of jurisdiction, means a pecuniary interest in common with the electors within that part; (“intérêt commun à tous les électeurs”)

“judge” means a judge of the Superior Court of Justice; (“juge”)

“local board” means a school board, board of directors of a children’s aid society, committee of adjustment, conservation authority, court of revision, land division committee, municipal service board, public library board, board of management of an improvement area, board of health, police services board, planning board, district social services administration board, trustees of a police village, board of trustees of a police village, board or committee of management of a long-term care home, or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act in respect of any of the affairs or

purposes, including school purposes, of one or more municipalities or parts thereof, but does not include a committee of management of a community recreation centre appointed by a school board or a local roads board; (“conseil local”)

“meeting” includes any regular, special, committee or other meeting of a council or local board, as the case may be; (“réunion”)

“member” means a member of a council or of a local board; (“membre”)

“municipality” includes a board, commission or other local authority exercising any power in respect of municipal affairs or purposes, including school purposes, in territory without municipal organization, but does not include a committee of management of a community recreation centre appointed by a school board, a local roads board or a local services board; (“municipalité”)

“parent” means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child; (“père ou mère”)

“school board” means a board as defined in subsection 1 (1) of the *Education Act*, and, where the context requires, includes an old board within the meaning of subsection 1 (1) of the *Education Act*; (“conseil scolaire”)

“senior officer” means the chair or any vice-chair of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a corporation or any other person who performs functions for the corporation similar to those normally performed by a person occupying any such office; (“dirigeant”)

“spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage. (“conjoint”) R.S.O. 1990, c. M.50, s. 1; 1997, c. 25, Sched. E, s. 7; 1997, c. 31, s. 156 (1); 1999, c. 6, s. 41 (1); 2002, c. 17, Sched. F, Table; 2005, c. 5, s. 45 (1, 2); 2006, c. 19, Sched. C, s. 1 (1); 2006, c. 32, Sched. D, s. 10; 2007, c. 8, s. 219.

#### Indirect pecuniary interest

**2.** For the purposes of this Act, a member has an indirect pecuniary interest in any matter in which the council or local board, as the case may be, is concerned, if,

- (a) the member or his or her nominee,
  - (i) is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public,
  - (ii) has a controlling interest in or is a director or senior officer of, a corporation that offers its securities to the public, or
  - (iii) is a member of a body,
 that has a pecuniary interest in the matter; or

- (b) the member is a partner of a person or is in the employment of a person or body that has a pecuniary interest in the matter. R.S.O. 1990, c. M.50, s. 2.

Interest of certain persons deemed that of member

**3.** For the purposes of this Act, the pecuniary interest, direct or indirect, of a parent or the spouse or any child of the member shall, if known to the member, be deemed to be also the pecuniary interest of the member. R.S.O. 1990, c. M.50, s. 3; 1999, c. 6, s. 41 (2); 2005, c. 5, s. 45 (3).

#### EXCEPTIONS

Where s. 5 does not apply

- 4.** Section 5 does not apply to a pecuniary interest in any matter that a member may have,
- (a) as a user of any public utility service supplied to the member by the municipality or local board in like manner and subject to the like conditions as are applicable in the case of persons who are not members;
  - (b) by reason of the member being entitled to receive on terms common to other persons any service or commodity or any subsidy, loan or other such benefit offered by the municipality or local board;
  - (c) by reason of the member purchasing or owning a debenture of the municipality or local board;
  - (d) by reason of the member having made a deposit with the municipality or local board, the whole or part of which is or may be returnable to the member in like manner as such a deposit is or may be returnable to all other electors;
  - (e) by reason of having an interest in any property affected by a work under the *Drainage Act* or by a work under a regulation made under Part XII of the *Municipal Act, 2001* or Part IX of the *City of Toronto Act, 2006*, as the case may be, relating to local improvements;
  - (f) by reason of having an interest in farm lands that are exempted from taxation for certain expenditures under the *Assessment Act*;
  - (g) by reason of the member being eligible for election or appointment to fill a vacancy, office or position in the council or local board when the council or local board is empowered or required by any general or special Act to fill such vacancy, office or position;
  - (h) by reason only of the member being a director or senior officer of a corporation incorporated for the purpose of carrying on business for and on behalf of the municipality or local board or by reason only of the member being a member of a board, commission, or other body as an appointee of a council or local board;

- (i) in respect of an allowance for attendance at meetings, or any other allowance, honorarium, remuneration, salary or benefit to which the member may be entitled by reason of being a member or as a member of a volunteer fire brigade, as the case may be;
- (j) by reason of the member having a pecuniary interest which is an interest in common with electors generally; or
- (k) by reason only of an interest of the member which is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member. R.S.O. 1990, c. M.50, s. 4; 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 33 (1).

#### DUTY OF MEMBER

When present at meeting at which matter considered

5. (1) Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the council or local board at which the matter is the subject of consideration, the member,

- (a) shall, prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof;
- (b) shall not take part in the discussion of, or vote on any question in respect of the matter; and
- (c) shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question. R.S.O. 1990, c. M.50, s. 5 (1).

Where member to leave closed meeting

(2) Where the meeting referred to in subsection (1) is not open to the public, in addition to complying with the requirements of that subsection, the member shall forthwith leave the meeting or the part of the meeting during which the matter is under consideration. R.S.O. 1990, c. M.50, s. 5 (2).

When absent from meeting at which matter considered

(3) Where the interest of a member has not been disclosed as required by subsection (1) by reason of the member's absence from the meeting referred to therein, the member shall disclose the interest and otherwise comply with subsection (1) at the first meeting of the council or local board, as the case may be, attended by the member after the meeting referred to in subsection (1). R.S.O. 1990, c. M.50, s. 5 (3).

## RECORD OF DISCLOSURE

Disclosure to be recorded in minutes

6. (1) Every declaration of interest and the general nature thereof made under section 5 shall, where the meeting is open to the public, be recorded in the minutes of the meeting by the clerk of the municipality or secretary of the committee or local board, as the case may be. R.S.O. 1990, c. M.50, s. 6 (1).

Idem

(2) Every declaration of interest made under section 5, but not the general nature of that interest, shall, where the meeting is not open to the public, be recorded in the minutes of the next meeting that is open to the public. R.S.O. 1990, c. M.50, s. 6 (2).

## REMEDY FOR LACK OF QUORUM

Quorum deemed constituted

7. (1) Where the number of members who, by reason of the provisions of this Act, are disabled from participating in a meeting is such that at that meeting the remaining members are not of sufficient number to constitute a quorum, then, despite any other general or special Act, the remaining number of members shall be deemed to constitute a quorum, provided such number is not less than two. R.S.O. 1990, c. M.50, s. 7 (1).

Application to judge

(2) Where in the circumstances mentioned in subsection (1), the remaining number of members who are not disabled from participating in the meeting is less than two, the council or local board may apply to a judge without notice for an order authorizing the council or local board, as the case may be, to give consideration to, discuss and vote on the matter out of which the interest arises. R.S.O. 1990, c. M.50, s. 7 (2).

Power of judge to declare s. 5 not to apply

(3) The judge may, on an application brought under subsection (2), by order, declare that section 5 does not apply to the council or local board, as the case may be, in respect of the matter in relation to which the application is brought, and the council or local board thereupon may give consideration to, discuss and vote on the matter in the same manner as though none of the members had any interest therein, subject only to such conditions and directions as the judge may consider appropriate and so order. R.S.O. 1990, c. M.50, s. 7 (3).

## ACTION WHERE CONTRAVENTION ALLEGED

Who may try alleged contravention of s. 5 (1-3)



**8.** The question of whether or not a member has contravened subsection 5 (1), (2) or (3) may be tried and determined by a judge. R.S.O. 1990, c. M.50, s. 8.

Who may apply to judge

**9. (1)** Subject to subsection (3), an elector may, within six weeks after the fact comes to his or her knowledge that a member may have contravened subsection 5 (1), (2) or (3), apply to the judge for a determination of the question of whether the member has contravened subsection 5 (1), (2) or (3). R.S.O. 1990, c. M.50, s. 9 (1).

Contents of notice of application

**(2)** The elector in his or her notice of application shall state the grounds for finding a contravention by the member of subsection 5 (1), (2) or (3). R.S.O. 1990, c. M.50, s. 9 (2).

Time for bringing application limited

**(3)** No application shall be brought under subsection (1) after the expiration of six years from the time at which the contravention is alleged to have occurred. R.S.O. 1990, c. M.50, s. 9 (3).

Power of judge to declare seat vacant, disqualify member and require restitution

**10. (1)** Subject to subsection (2), where the judge determines that a member or a former member while he or she was a member has contravened subsection 5 (1), (2) or (3), the judge,

- (a) shall, in the case of a member, declare the seat of the member vacant; and
- (b) may disqualify the member or former member from being a member during a period thereafter of not more than seven years; and
- (c) may, where the contravention has resulted in personal financial gain, require the member or former member to make restitution to the party suffering the loss, or, where such party is not readily ascertainable, to the municipality or local board of which he or she is a member or former member. R.S.O. 1990, c. M.50, s. 10 (1).

Saving by reason of inadvertence or error

**(2)** Where the judge determines that a member or a former member while he or she was a member has contravened subsection 5 (1), (2) or (3), if the judge finds that the contravention was committed through inadvertence or by reason of an error in judgment, the member is not subject to having his or her seat declared vacant and the member or former member is not subject to being disqualified as a member, as provided by subsection (1). R.S.O. 1990, c. M.50, s. 10 (2).

Member not to be suspended

(3) The authority to disqualify a member in subsection (1) does not include the right to suspend a member. R.S.O. 1990, c. M.50, s. 10 (3).

Transition: disqualification

(4) A disqualification of a member of a school board under this section that would have continued after December 31, 1997 but for the dissolution of the school board continues for its duration with respect to membership on any board whose members are elected by members of the electoral group who elected the member. 1997, c. 31, s. 156 (2).

Definition

(5) In subsection (4),

“electoral group” has the same meaning as in Part VIII of the *Education Act* as the Part read on January 1, 1997. 1997, c. 31, s. 156 (2).

Appeal to Divisional Court

**11. (1)** An appeal lies from any order made under section 10 to the Divisional Court in accordance with the rules of court. R.S.O. 1990, c. M.50, s. 11 (1).

Judgment or new trial

(2) The Divisional Court may give any judgment that ought to have been pronounced, in which case its decision is final, or the Divisional Court may grant a new trial for the purpose of taking evidence or additional evidence and may remit the case to the trial judge or another judge and, subject to any directions of the Divisional Court, the case shall be proceeded with as if there had been no appeal. R.S.O. 1990, c. M.50, s. 11 (2).

Appeal from order or new trial

(3) Where the case is remitted to a judge under subsection (2), an appeal lies from the order of the judge to the Divisional Court in accordance with the provisions of this section. R.S.O. 1990, c. M.50, s. 11 (3).

Proceedings not invalidated but voidable

**12.** The failure of any person to comply with subsection 5 (1), (2) or (3) does not of itself invalidate any proceedings in respect of any such matter but the proceedings in respect of such matter are voidable at the instance of the municipality or of the local board, as the case may be, before the expiration of two years from the date of the passing of the by-law or resolution authorizing such matter unless to make void the proceedings would adversely affect the rights of any person acquired under or by virtue of the proceedings who acted in good faith

and without actual notice of the failure to comply with subsection 5 (1), (2) or (3). R.S.O. 1990, c. M.50, s. 12.

Other procedures prohibited

**13.** Proceedings to declare a seat vacant or to disqualify a member or former member for conflict of interest, or to require a member or former member to make restitution where a contravention has resulted in personal financial gain, shall be had and taken only under this Act. R.S.O. 1990, c. M.50, s. 13.

#### GENERAL

Insurance

**14. (1)** Despite section 279 of the *Municipal Act, 2001* or section 218 of the *City of Toronto Act, 2006*, as the case may be, the council of every municipality may at any time pass by-laws,

- (a) for contracting for insurance;
- (b) despite the *Insurance Act*, to enable the municipality to act as an insurer; and
- (c) for exchanging with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act*,

to protect a member of the council or of any local board thereof who has been found not to have contravened section 5, against any costs or expenses incurred by the member as a result of a proceeding brought under this Act, and for paying on behalf of or reimbursing the member for any such costs or expenses. R.S.O. 1990, c. M.50, s. 14 (1); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 33 (2).

*Insurance Act* does not apply

**(2)** The *Insurance Act* does not apply to a municipality acting as an insurer for the purposes of subsection (1). R.S.O. 1990, c. M.50, s. 14 (2).

Surplus funds

**(3)** Despite section 387 of the *Insurance Act*, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in such securities as a municipality may invest in under the *Municipal Act, 2001* or the *City of Toronto Act, 2006*, as the case may be. R.S.O. 1990, c. M.50, s. 14 (3); 1996, c. 32, s. 76 (1); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 33 (3); 2007, c. 7, Sched. 27, s. 1.

Reserve funds

(4) The money raised for a reserve fund of a municipal reciprocal exchange may be expended or pledged for, or applied to, a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were members of the exchange and that may be subject to claims arising while they were members of the exchange agree in writing and if section 386 of the *Insurance Act* is complied with. R.S.O. 1990, c. M.50, s. 14 (4); 2009, c. 33, Sched. 21, s. 7.

#### Local boards

(5) A local board has the same powers to provide insurance for or to make payments to or on behalf of its members as are conferred upon the council of a municipality under this section in respect of its members. R.S.O. 1990, c. M.50, s. 14 (5).

#### Former members

(6) A by-law passed under this section may provide that it applies to a person who was a member at the time the circumstances giving rise to the proceeding occurred but who, prior to the judgment in the proceeding, has ceased to be a member. R.S.O. 1990, c. M.50, s. 14 (6).

#### Conflict with other Acts

15. In the event of conflict between any provision of this Act and any provision of any general or special Act, the provision of this Act prevails. R.S.O. 1990, c. M.50, s. 15.