



## REGISTER OF OFFICIAL DOCUMENTS

### CODE OF ETHICS AND PROFESSIONAL CONDUCT APPLICABLE TO THE COUNCIL OF COMMISSIONERS

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*The addenda are for reference and administrative purposes; they are subject to updates and modifications without consultation.*

*In this document, the use of gender-neutral plural or collective form has been used whenever possible in the context.*



## **1. Preamble**

The primary role of Commissioners is to ensure that a quality public education program is available taking into consideration the best interests of the School Board as a whole and its students and the local constituency they represent.

The Council of Commissioners acts in accordance with the relevant Quebec statutes and regulations to implement provincial education standards and policies required by the Ministère de l'Éducation du Québec .

To fulfill its mandate, the Council of Commissioners must work together and with all its stakeholders in a learning and working environment characterized by common purpose, mutual respect and integrity.

## **2. Enabling Provisions**

Education Act, R.S.Q., c. I-13.3, sections 175.1 to 177.2

## **3. Purpose**

In accordance with section 175.1 of the Education Act, the purpose of this By-Law is to set out the duties and obligations of the Commissioners, and to prescribe fundamental standards regarding the ethical behaviour of the Commissioners. In particular, the purpose of this By-Law is to:

- Ensure the integrity, objectivity and impartiality of the Council of Commissioners;
- Establish standards of professional conduct for its Commissioners;
- Ensure transparency in the conduct of their business;
- Prevent potential or real conflicts of interest;
- Ensure respectful and collegial interactions of Commissioners amongst themselves and with others.



Wherever used herein, the term *Commissioner* refers to a person who is a member of the Council of Commissioners as per section 143 of the Education Act<sup>1</sup>, including the Chair, the parent Commissioners and the co-opted Commissioners.

This By-Law is applicable to all Commissioners of the Lester B. Pearson School Board.

## **SECTION I - Duties and Obligations of the Commissioners**

### **4. General duties**

- 4.1. Commissioners must comply with the duties and obligations prescribed by the School Board's By-Laws and Policies, and by the duties and obligations prescribed by the Education Act and any other applicable legislation.
- 4.2. Commissioners must act within the scope of the functions and powers conferred by the Education Act.
- 4.3. Commissioners must fulfill the office with independence, integrity and good faith in the best interests of the School Board and the population served by the School Board.
- 4.4. Commissioners must exercise the care, prudence and diligence that a reasonable person would exercise in similar circumstances.
- 4.5. Commissioners must at all times act and communicate in a manner that is dignified and compatible with their office in order to protect and promote the reputation and credibility of the School Board.
- 4.6. Commissioners must treat other Commissioners as well as the employees of the School Board, parent representatives, volunteers, the school community, the public and other bodies in a professional and respectful manner.
- 4.7. Commissioners may not interfere with, attempt to influence the work of, or give instructions to employees of the School Board for any cause or reason, with the exception of the Director General, without limiting the collaboration that is necessary within the scope and mandate of all committees, subcommittees and other working groups.

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<sup>1</sup> Applicable version in effect on February 7, 2020.



- 4.8. Commissioners must disclose to the Council of Commissioners any illegal or irregular situations affecting the School Board that they are aware of and must do so with due discretion and impartiality; however, in cases regarding a violation of the present Code of Ethics, a Commissioner may submit a complaint to the Ethics Officer as per section 12.

## **5. Decisional Authority**

- 5.1. Commissioners must abide by the majority decision of the Council of Commissioners and recognize that decisional authority rests with the Council of Commissioners in a legal session.
- 5.2. Commissioners do not have powers or authority in their own right regarding the School Board's activities. Their powers and authority are exercised through the duly convened structures of the School Board and with due regard for everyone's role and responsibilities.
- 5.3. Commissioners must respect the principle of democracy, in a spirit of cooperation, and must not present themselves as having sole authority over the actions of the School Board.
- 5.4. Commissioners must base their decisions on the available information and their independent judgment. They shall not allow their decisions to be dictated by any other individual or special interest group.

## **6. Conflict of Interest**

- 6.1. Commissioners must submit to the Secretary General a written statement, on the form provided by the School Board (refer to Addendum A-1 and A-2), of any situation or relationship which might create a potential or apparent conflict of interest.

In particular, Commissioners shall disclose:

- 6.1.1 Any personal or monetary interest which, in the eyes of a reasonably informed observer, would likely influence or impact the person's function and affect the impartiality of their opinions or decisions;
- 6.1.2 Any situation that places or could place, directly or indirectly, their personal interests or those of their close relations in conflict with those of the School Board;



- 6.1.3. Any direct or indirect interest in legal persons, partnerships and enterprises liable to have contracts with the School Board.
- 6.2. The Commissioner shall submit the statement of interest upon entry into office, and as soon as any change occurs.
- 6.3. When in a situation of conflict of interest with regard to a subject treated by the Council of Commissioners or its committees, the Commissioner must disclose such conflict and withdraw from the deliberations and the vote on the subject.
- 6.4. Commissioners must refrain from placing themselves in a situation entailing a conflict between the interest of the School Board or the population it serves, or the public interest, and their personal interest or that of a person related to the Commissioner, such as the Commissioner's child, spouse or relative, a person living under the same roof, a legal person or partner that the Commissioner manages or controls. In particular, the Commissioner:
  - 6.4.1. Must refuse, and disclose to the Council of Commissioners any offer of services or goods made to them by a person in order to obtain a contract or any other benefit from the School Board;
  - 6.4.2. Must not directly or indirectly offer, solicit or accept a favour or an undue advantage for themselves or another person;
  - 6.4.3. Must not act, attempt to act, or refrain from acting, so as to further their private interests or those of persons with whom the Commissioner is connected, or to improperly further another person's private interests;
  - 6.4.4. Must not use their position to influence or attempt to influence another person's decision so as to further their private interests or those of a person with whom the Commissioner is connected, or to improperly further another person's private interests.
- 6.5. Except for goods and services provided by the School Board, a Commissioner may not, directly or through a legal person or enterprise that the Commissioner controls, enter into a contract with the School Board, except with authorization from the Council of Commissioners warranted, in particular, by a special competence necessary to the School Board.



6.6. A Commissioner must refrain from associating the School Board, however remotely, with:

- (1) a personal endeavour, and in particular an endeavour involving political activities;
- (2) a public position that reflects their personal positions, in particular on a website, blog or social network.

## **7. Remuneration**

The Council of Commissioners determines, by resolution, the distribution of the remuneration paid to its members for the services they render, in accordance with the maximum annual amount determined by Government regulation. Commissioners are not entitled to any other payment from the School Board other than an expense reimbursement in compliance with the *Commissioners' Local Travel, Conference, and Other Expenses* policy.

## **8. Gifts**

8.1. Commissioners shall not accept a gift from any person or entity that has dealings with the School Board if a reasonable person might conclude that the gift could influence the Commissioners when performing their duties to the School Board.

## **9. Confidential Information**

9.1. As part of their duties for the School Board, Commissioners have access to strictly confidential information and privileged information about the School Board operations as well as personal information about others (hereinafter the Confidential Information).

9.2. Without limiting the generality of the foregoing, the following must be considered as Confidential Information:

- Any personal information collected or kept by the School Board regarding its employees, including disciplinary measures;
- Any personal information collected or kept by the School Board regarding its students;
- The content and nature of a complaint under this Code of Ethics, and any information regarding the investigation;



- Discussions on negotiations in progress;
  - Negotiations and information relative to suppliers during the tendering process;
  - Documents stamped or identified as “confidential”;
  - Information disclosed during “in camera” meetings of the Council of Commissioners, the Executive Committee, a Standing Committee, and respective Subcommittees.
- 9.3. Commissioners shall demonstrate absolute discretion regarding any Confidential Information, both during and after their term of office.
- 9.4. Commissioners shall never use Confidential Information for other reasons than that for which it was communicated to them.
- 9.5. Commissioners shall take all necessary measures to ensure the protection of such Confidential Information against any unauthorized access.
- 9.6. Commissioners must submit a signed Solemn Affirmation to Respect Confidentiality Form (Addendum B) within 10 days of the taking of the Oath of Office.

## **10. Protection against certain financial losses**

- 10.1. In accordance with section 177.2 of the Education Act, the School Board shall assume the defense of any Commissioner who is the object of a complaint under this Code of Ethics and Professional Conduct or prosecuted by a third person for an act done in the exercise of their functions.
- 10.2. The Commissioner who wishes to exercise this right must submit a request to the Council of Commissioners.
- 10.3. The School Board will provide the appropriate services to ensure the Commissioner’s defense in all cases where the request is deemed compliant with section 177.2 of the Education Act.
- 10.4. In the event where a Commissioner would choose to hire an attorney independently, the School Board will only reimburse the Commissioner the costs equal to that which the School Board would have reasonably incurred for the defense of the Commissioner in providing the services according to paragraph 10.3.





- 10.5. In all cases, decisions regarding the legal fees to be assumed by the School Board under this section shall be taken by the Council of Commissioners, or by the authority to which this power has been specifically delegated.

## **SECTION II - Enforcement Mechanism and Sanctions**

### **11. Ethics Officer**

- 11.1. In order to implement this By-Law, the Council of Commissioners shall appoint by resolution an Ethics Officer who will be responsible for dealing with complaints made against a Commissioner for a potential breach of this Code of Ethics and Professional Conduct.
- 11.2. The Ethics Officer must be a jurist, normally with a minimum of ten (10) years of relevant experience.
- 11.3. The Ethics Officer must not be a member of the Council of Commissioners or an employee of the School Board, in conformity with section 175.1 of the Education Act.
- 11.4. The Ethics Officer must not be a relative of a member of the Council of Commissioners or of an employee of the School Board.
- 11.5. The Council of Commissioners shall also appoint by resolution a Substitute to replace the Ethics Officer if the latter is absent or unable to perform their duties in an expeditious manner. This Substitute must also be a jurist, normally with a minimum of ten (10) years of relevant experience.
- 11.6. The term of the mandate of the Ethics Officer and of the Substitute is determined by the Council of Commissioners.

### **12. Filing a Complaint**

- 12.1. A complaint must be related to a breach of one or more of the specific provision(s) of the Code of Ethics and Professional Conduct and must present specific facts in support of the alleged breach.
- 12.2. The complaint must be submitted in writing and may be filed by any person aware of a breach of the Code of Ethics and Professional Conduct.



12.3. The complaint must be addressed to the Secretary General who will forward it to the Ethics Officer.

### **13. Procedure**

The Ethics Officer shall act in accordance with the principles of procedural fairness with all those involved. To this effect, the following guidelines should be followed:

13.1. The Ethics Officer will acknowledge receipt, in writing, of the complaint to the Complainant and will inform the Complainant of their rights pursuant to paragraph 13.6.7 of this Code of Ethics.

13.2 Subject to the provisions of paragraph 13.6.7 of this Code of Ethics, the Ethics Officer will send a copy of the complaint to the Commissioner concerned.

13.3. Within fifteen (15) days of the receipt of the complaint, the Ethics Officer may determine whether or not the complaint is clearly unfounded or frivolous and whether or not further investigation is necessary.

13.4. If the Ethics Officer decides that the complaint is clearly unfounded or frivolous, the Ethics Officer will state it in a written decision which will be sent to the Secretary General. The Secretary General shall then follow the process established at paragraph 14.3.

13.5. In all other cases, the Ethics Officer will convene, in writing and as per the process established at paragraph 13.6, the Complainant, the Commissioner affected by the complaint, and any other witness the Ethics Officer will deem relevant, in order to determine if the complaint is founded.

13.6. During the investigation:

13.6.1. Each party will be convened separately and in turn.

13.6.2. The Complainant and the Commissioner affected by the complaint may request that the Ethics Officer meet or discuss with certain witnesses; however, it is the prerogative of the Ethics Officer to decide who will be called as a witness.

13.6.3. The Ethics Officer may also meet or have a discussion with any other person who may have relevant information regarding the complaint.



- 13.6.4. All meetings with the Complainant, the Commissioner affected by the complaint and other witnesses will be conducted at the offices of the Ethics Officer.
  - 13.6.5. The essential facts gathered during each deposition and deemed relevant by the Ethics Officer shall be transcribed and communicated to the witness for confirmation purposes.
  - 13.6.6. The Ethics Officer, if deemed advisable, designates a mechanism to record any testimony but only for the purposes of facilitating the note taking of the pertinent facts. The actual recording of any testimony will not be disclosed to anyone, unless forced to do so by a court order or if the witness concerned authorizes the Ethics Officer to do so.
  - 13.6.7. The Ethics Officer may decide to hold confidential the identity of a witness, including the Complainant, upon request from any of them. Depending on the circumstances and the facts exposed, the Ethics Officer will decide if it is appropriate to keep the name of that person confidential; however, the Ethics Officer shall inform the witness of the decision before communicating the witness' identity to anyone in order to allow the witness to refuse said communication and to withdraw their testimony.
  - 13.6.8. A summary of the facts gathered during any of the processes indicated above, and that the Ethics Officer deems relevant, will be communicated to the Commissioner concerned in order to give the Commissioner an opportunity to understand and reply.
- 13.7. Once the parties and witnesses have been heard, the Ethics Officer will render a decision in writing stating the reasons as to whether there has been an infraction to the Code of Ethics and Professional Conduct; and if so, the Ethics Officer will determine the appropriate penalty, the whole as provided for under paragraph 14.1 of this Code.

## **14. Decision**

- 14.1. Following the investigation, the Ethics Officer will decide whether or not the Code of Ethics and Professional Conduct was breached. If so, the Ethics Officer will select one or more measure(s) amongst the following:
  - 14.1.1. A written reprimand, accompanied or not by a request for an apology;



- 14.1.2. The suspension or revocation of the right to sit on School Board committees except the right to participate in the public meetings of the Executive Committee and the Council of Commissioners;
  - 14.1.3. The suspension of the Commissioner's remuneration up to a maximum of 6 months;
  - 14.1.4. A recommendation to the Council of Commissioners that an action to declare the Commissioner disqualified be initiated in accordance with section 176 of the Education Act and section 308 of the Act Respecting Elections and Referendums in Municipalities.
- 14.2. The Ethics Officer shall send their complete decision to the Secretary General and the Commissioner affected by the complaint.
- 14.3. The Secretary General shall forward the decision to the Complainant and to all Commissioners and, in cases where the Ethics Officer concludes that the Code of Ethics and Professional Conduct was breached, the decision and the name of the sanctioned Commissioner shall be presented in public within 45 days.
- 14.4. The communication of the decision to the Commissioners, the Complainant and to the public shall be made in accordance with the *Act respecting Access to documents held by public bodies and the Protection of personal information*, and in particular, in compliance with the obligation to ensure the confidentiality of the personal information contained in the decision.

### **SECTION III – Final provisions**

#### **15. Report**

The Ethics Officer shall submit to the Council of Commissioners a written report of their activities, no later than September 30 for each school year ended on the previous June 30, in compliance with section 175.1 of the Education Act.

#### **16. Effective Date**

The present By-Law becomes effective on the day public notice of its adoption is given or on any later date indicated in the notice.



## ADDENDUM A-1

### INTEREST DISCLOSURE FORM (EDUCATION ACT)

List of companies or organizations (including non-profit) for which the Commissioner, their spouse or their children are employees or part of the governance (i.e. participation in the decisions relating to financial and administrative policies) and which currently have or may likely have future contracts with the School Board:

|     | Name of the company / organization | Position in the company or organization |
|-----|------------------------------------|---|
| 1.  |                                    |   |
| 2.  |                                    |   |
| 3.  |                                    |   |
| 4.  |                                    |   |
| 5.  |                                    |   |
| 6.  |                                    |   |
| 7.  |                                    |   |
| 8.  |                                    |   |
| 9.  |                                    |   |
| 10. |                                    |   |

Source: Education Act

**175.4.** Any member of the council of commissioners 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 must, on pain of forfeiture of office, disclose the interest in writing to the director general of the school board, abstain from voting on any matter concerning the enterprise and avoid influencing the decision relating to it. The member must, in addition, withdraw from a sitting while the matter is discussed or voted on.

A disclosure under the first paragraph must be made at the first sitting of the council

- (1) after a person having such an interest becomes a member of the council;
- (2) after a member of the council acquires such an interest;
- (3) during which the matter is dealt with.

Forfeiture of office incurred under this section shall subsist for five years after the date on which the judgment in which the forfeiture is declared acquires the authority of *res judicata*

Date:

Signature:



## ADDENDUM A-2

### INTEREST DISCLOSURE FORM (CODE OF ETHICS)

List of relationships, enterprises, associations, memberships or other affiliations in which the Commissioner, their spouse or their children are involved and that the commissioner believes could impact the Commissioner's function and affect the impartiality of their opinions or decisions at the School Board:

|     | Description |
|-----|-------------|
| 1.  |             |
| 2.  |             |
| 3.  |             |
| 4.  |             |
| 5.  |             |
| 6.  |             |
| 7.  |             |
| 8.  |             |
| 9.  |             |
| 10. |             |

Source: Section 6 of Code of Ethics and Professional Conduct Applicable to the Council of Commissioners

Date:

Signature:



## ADDENDUM B

### Solemn Affirmation to Respect Confidentiality

The Council of Commissioners hereinafter referred to as “The Council” is charged by law with the responsibility of administering (section 143 of the Education Act) the Lester B. Pearson School Board. This is a heavy responsibility, but one that is shared and conducted as a group, not as individuals. In order to carry out this role, the Council has created a number of working committees, including a caucus of all Commissioners and senior management. In the course of conducting its affairs, the Council members are privy to a wide range of information and documentation, often shared in a confidential and private (non-public) setting.

**Each Commissioner of the Council shares the same access to, and responsibility for, confidential and nominative information which is necessary to oversee the operations, actions, and personnel under the day-to-day control of the Board management.**

If the majority of members of the Council believe that an individual Commissioner has failed to respect confidentiality, then the person responsible for the enforcement of the Code of Ethics can impose sanctions as stated in the Code of Ethics and Professional Conduct (Code of Ethics). As well, the entire Board is governed by By-law 3 which confers upon the the person designated as Person in Charge of Access to Documents and of the Protection of Personal Information for the Lester B. Pearson School Board the Powers and Authority in Respect to the Act Respecting Access to Documents held by Public Bodies and the Protection of Personal Information. Legal action can be taken against any individual should such protection be breached.

Within this context, the members of the Council solemnly affirm their commitment to confidentiality, following both the spirit and the letter of the law, but also out of respect for their peers.

I, \_\_\_\_\_ the undersigned Commissioner, solemnly affirm that I will not divulge any confidential information such as:

- Discussions in caucus or the non-public parts of workshops, committee or other meetings which I attend in the course of my role as Commissioner;
- Confidential information (so identified) provided as part of, or appended to, meeting agendas, kits or packages of documentation;
- Any discussion, any document, or any personal, student or personnel information relating to affairs of the LBPSB that must not be disclosed by virtue of the provisions of the Act Respecting Access to Documents held by Public Bodies and the Protection of Personal Information.

If not certain about the level of confidentiality of specific information or documentation that is protected by legislation, I will verify same with the Person in Charge of Access to Documents and of the Protection of Personal Information **and** with the Chair of Council or Director General of the School Board.

If I am uncertain about the consequence of public disclosure of any information shared among the members of the Council in confidence, I shall verify with the Chair of the School Board the appropriateness of such disclosure.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_