

Catholic Trustee Code of Conduct

PRINCIPLES OF DECISION-MAKING

It is the policy of the Simcoe Muskoka Catholic District School Board that Trustees will conduct themselves in a legal, ethical, and professional manner, embracing Gospel values and advancing quality faith-based Catholic education.

Trustees will embody and be an example to their Catholic community by:

Faith

- Demonstrating that human life and dignity are the core foundation of all of the decision-making principles herein adopted by the Board of Trustees.
- Leading by example through active participation in the communal life of their parish, as a caring family member and by a personal lifestyle that reflects the teaching of the Church.
- Being a discerning believer formed in the Catholic faith community, who acknowledges that Catholic schools are an expression of the teaching mission of the Church.

Parish and Community

- Treating everyone equitably and with dignity regardless of race, colour, ancestry, place of origin, ethnic origin, citizenship, religion, gender, gender expression, gender identity, sexual orientation, age, disability or any other immutable characteristic or ground prohibited by the *Human Rights Code*.
- Recognizing that every person has the right to full participation in economic, political and cultural life of society.
- Recognizing that stewardship of creation requires everyone to protect the planet.
- Communicating effectively, respectfully, and professionally with dignity in every format and setting.
- Being a person who respects differences and promotes peace, mutual respect, confidence and collaboration between people.

Board Member

- Demonstrating a common commitment to the Board and to Catholic education and representing the best interests of the Board with dignity and integrity.
- Reflecting the role of all levels of government in promoting human dignity, protecting human rights and building the common good.
- Appreciating that every person has the right to the dignity of productive work and that the Board will be judged by the options it makes available to its most vulnerable students.
- Being a self-directed, responsible, lifelong learner, who is informed through professional development and by knowledge of current Catholic educational issues, research, and best practices.

- Demonstrating reflective, creative and holistic thinking, and contributing collaboratively by being prepared for meetings and participating civilly and with decorum to ensure that decisions reflect the integrity of the Board, are student focused, are in the best interests of the Board's community and the common good, and are not influenced by personal advantage.

CONDUCT OF TRUSTEES

Consistent with the above Principles of Decision-Making, the Simcoe Muskoka Catholic District School Board Trustees agree to be bound by this Code of Conduct, reflecting their commitment to the following expectations:

1. Integrity and Dignity of Office

Trustees shall maintain an unimpeachable standard of integrity in all their relationships, both inside and outside the Board, fostering the highest standard of professional competence among those for whom they are responsible.

A Trustee shall act responsibly with the Board's resources, in accordance with their duties as Trustees and in accordance with Board policy.

A Trustee shall refrain from accepting a gift from a third party where the gift may improperly influence, or give the appearance of improperly influencing, his or her decision making.

A Trustee shall not use his/her position, authority or influence for personal, financial, business or material gain, or for the personal, financial, business or material gain of a relative, friend and/or business associate.

On occasion, lobbyists or other individuals may attempt to communicate with a Trustee for the purpose of influencing the Trustee with respect to the Board's procurement of goods and services and the awarding of contracts. A Trustee who is contacted for such a purpose shall refrain from responding to the inquiry or engaging in further communication on the subject, and shall immediately report the contact to the Chair of the Board.

During a procurement process, a Trustee shall not communicate with any prospective third party supplier of goods and services, or use his or her influence to gain or advance the interests of a particular proponent.

2. Avoidance of Personal Advantage and Conflict of Interest

Trustees have an obligation when acting in their capacity as Trustees to make decision based solely in the best interests of the Board.

Trustees are subject to the *Municipal Conflict of Interest Act*¹ (the "Act") which provides that where a Trustee has a direct, indirect or deemed pecuniary interest, as defined by the Act, he or she is required to take specific steps to address the conflict. A copy of the Act is attached as

¹ R.S.O. 1990 c. M.50.

Schedule 1 to this Code of Conduct.

A Trustee must follow the steps prescribed by the *Act* if he or she has a direct, indirect or deemed conflict of interest in a matter which is the subject of consideration by the Board. Matters which are “the subject of consideration” include agenda items for discussion, information or decision.

Where a matter is discussed at a meeting at which a Trustee who has a conflict is not present, the Trustee will follow the steps in the *Act* at the next meeting they attend at which the matter arises.

a. Recording a Declaration in the Minutes

When the meeting is open to the public, every declaration of interest and the general nature of that interest shall be recorded in the minutes of the Board meeting that is open to the public and recorded in a written declaration executed by the trustee and filed in a registry maintained by the Board before the next meeting that is open to the public.

When the meeting is *in camera*, a declaration of interest, but not the general nature of that interest, shall be recorded in the minutes of the next meeting of the Board that is open to the public and recorded in a written declaration executed by the trustee and filed in a registry maintained by the Board before the next meeting that is open to the public.

b. When is an Interest not a Conflict?

The Trustee’s interest does not constitute a conflict with the interests of the Board when:

- a) the Trustee’s pecuniary interest is common to the general electorate;
- b) the interest is so insignificant or remote in nature that it could not reasonably be regarded as likely to influence the Trustee in the exercise of their responsibilities.

Pursuant to the *Act*, there is also no requirement that a Trustee act on the basis of a perceived conflict of interest. However, each Trustee must evaluate whether or not their judgment and decision-making conflicts with other interests and whether a particular decision may provide them with a personal advantage, if so; she/he should refrain from acting in that matter.

The *Act* holds a Trustee to the standard of an independent and trusted decision-maker. Only the Trustee may declare that their own interest is in conflict with the interest of the Board.

In addition to the remedies outlined in the *Act*, a Trustee who questions whether a fellow Trustee has a conflict of interest may raise the matter respectfully and informally with the potentially conflicted Trustee, but may not declare a conflict on that Trustee’s behalf, or assert that the Trustee should be denied the opportunity to participate in discussion or cast a vote.

A Trustee who has pursued such an informal resolution, and who nonetheless disagrees with another Trustee's decision with respect to whether a conflict of interest exists, may request that his or her objection be recorded in the minutes. That Trustee may, in addition, bring a complaint pursuant to this Code.

Where a Trustee is not confident in their assessment of whether or not they have a conflict, he or she may choose to seek a separate legal opinion from his/her own legal counsel.

c. Conflict vs. Bias

Competing interests must be distinguished from personal bias. It is assumed that in meeting statutorily defined board responsibilities Trustees may be biased by their values, experiences and individual assessment of policy priorities. Personal differences may lead to varying but valid interpretations of the Board's best interests.

Trustees acknowledge that such differences form an inherent part of the governance process, and are intended to be resolved by the application of *Robert's Rules of Order*, the Board's By-law, and adherence to this Code of Conduct.

3. Compliance with Legislation

In accordance with the *Education Act*, each Trustee must take the Declaration and Oath of Office prior to commencing their role as Trustee.

Trustees shall become familiar with their duties as prescribed by law, and every Trustee shall uphold and enhance all Board business operations by complying with and being seen in compliance with the letter and spirit of:

- a) The laws of Canada and the province of Ontario and municipal laws; and
- b) Contractual obligations applicable to the Board,

and rejecting and denouncing any business practice that is improper or inappropriate, or may appear to be improper or inappropriate.

The *Education Act* confers authority on the Board of Trustees, but does not confer any decision-making authority on an individual Trustee. A Trustee shall therefore, at all times, be mindful that their role is defined by statute, as that of a member of a decision-making body.

Trustees will work with staff in a manner which demonstrates respect for the roles, contributions and skills of all of the individuals working on behalf of the Board. Trustees shall not ask staff to act on a request from individual Trustees, nor shall Trustees attempt to exercise individual influence or authority over staff. Staff will be bound by the policy directions set by the Board, as expressed through its resolutions, recorded in the minutes, communicated through the Chair, and implemented by the Director of Education.

4. Civil Behaviour

Trustees shall act at all times in a manner appropriate to their position as leaders in Catholic education, treating all other Trustees and Board staff with dignity and respect, and striving to act

as a model of exemplary governance in accordance with Catholic values.

Trustees shall not engage in disparaging communication in any forum or format about another Trustee, a staff member, or any person, recognizing that a diversity of views, skills and personal traits are inherently valuable in a strong Catholic education system, and shall model exemplary decorum during meetings of the Board and its committees, events, and activities and when communicating.

A Trustee who uses offensive language, disobeys the decisions of the Chair or Board on points of order, makes disorderly noise, disquiets a meeting or makes a disturbance may be reminded by the Chair of their obligations under the Code of Conduct.

If unbecoming conduct should continue, the Chair may order that a Trustee leave for the remainder of the meeting. If a Trustee fails to comply with the order of the Chair, he or she may be removed from the room or building where the meeting is taking place pursuant to section 207(3) of the *Education Act*, and such an order will be recorded in the minutes of the Board meeting.

5. **Respect for Confidentiality**

As fiduciaries, Trustees must act honestly and in good faith, in the best interests of the Board. Confidentiality is fundamental to that fiduciary duty. Trustees must maintain the confidentiality of information which is shared at meetings of the Board and committees of the Board properly held *in camera*.² Such information is provided only to permit Trustees to make a reasoned decision, and cannot be shared with anyone who is not a Trustee of the Board.

Trustees may also be privy to the personal information of students and employees (private information), confidential financial, business and/or commercial information (confidential information) and/or legally privileged opinions and legal information (privileged information) belonging to the Board. Such information may include, but is not limited to, information relating to the Board's financial data, operations, business plans, commercial interests, business costs, research data results, in-camera discussions and actions, litigation matters, educational data and health records.

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

The Trustee's fiduciary duty includes an obligation to take all necessary precautions to protect the integrity and secrecy of private, confidential and privileged information to which they have been made aware, including safeguarding against inadvertent disclosure. This information received by Trustees in the course of their duties should not be discussed or reviewed in public or where another person could accidentally overhear or read such information.

A Trustee's duty of to keep secret private, confidential and privileged information secret applies to

² As defined by Section 239(2) of the *Municipal Act*, S.O. 2001. c. 25.

a Trustee using any form of technology whether the technology is owned by the Board or the technology is owned by the individual Trustee. The term “technology” refers to any digital or telephonic communication or recording including use of and access to the Board’s network, intranet and the Internet.

If a Trustee has any doubt about the nature or extent of their responsibility to keep such information secret or his/her personal liability should they fail to adhere to this obligation, she/he is encouraged to request assistance from the Chair.

A Trustee's duty to keep such information secret survives his or her term as Trustee.

6. Upholding Decisions & Communication with the Public

A Trustee shall conduct themselves in a manner which recognizes that the *Education Act*, the Board’s By-law and this Code of Conduct protect the right of the minority view to be heard, the right of each Trustee to cast a vote, and the right of the majority to govern.

Therefore, during consideration of a matter before the Board and prior to a vote, the Board shall recognize and respect the right of all Trustees to be heard, in order that a productive, purposeful debate upon the merits of the issues may take place.

After the vote has been called, taken and recorded, all Trustees shall respect the decision of the majority.

In accordance with the Board’s By-law, the Board Chair or designate is responsible for public communications made on behalf of the Board of Trustees and the corporate Board. A Trustee who receives a request for public comment regarding an issue before the Board, or arising from a decision of the Board, shall refer such a request to the Chair.

Every Trustee shall make themselves familiar with and ensure that she/he complies with the directions regarding communication during times of emergency. A failure to do so may put a student, employee, or fellow Trustee at risk of harm.

7. Enforcement³

A Trustee who has reasonable grounds to believe that another Trustee has breached the Board’s Catholic Trustee Code of Conduct, may bring the alleged breach to the attention of the Board through the Chair (or Vice Chair where the alleged breach was committed by the Chair⁴).

Where the Chair, in consultation with the Director of Education, deems the alleged breach of the Code of Conduct to constitute an alleged or potential criminal offence, the matter shall be reported to the police and further steps pursuant to this Catholic Trustee Code of Conduct shall be dependent upon police action.

³ The *Statutory Powers Procedure Act* does not apply to anything done with respect to the enforcement of the Catholic Trustee Code.

⁴ Where the matter involves the Chair, the Vice Chair may take all of the steps identified in the Enforcement section.

In all other circumstances, the Chair may choose to address the alleged breach of the Catholic Trustee Code of Conduct informally through discussion facilitated by her/himself or through a third-party facilitator.

In circumstances where the alleged breach cannot be addressed to the satisfaction of all of the parties through facilitated discussion, the Chair shall bring the alleged breach to the attention of the Board, and the Board shall make inquiries or cause inquiries to be made into the allegations. Such inquiries may be made by the Chair, an employee of the Board, or a third-party, as resolved by the Board following consultation with the Director of Education.

Based on the results of the inquiries, the Board of Trustees shall determine whether or not the Trustee has breached the Board's Catholic Trustee Code of Conduct.

The meeting of the Board during which an alleged breach or breaches of the Catholic Trustee Code of Conduct is considered may be closed to the public, if the issue involves:

- a) the security of the property of the Board;
- b) the disclosure of intimate, personal or financial information in respect of a member of the Board or committee, an employee or prospective employee of the Board or a pupil 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.

If the Board determines that the Trustee has breached the Board's Catholic Trustee Code of Conduct, the Board **may** impose one or more of the following sanctions:

1. Censure of the Trustee;
2. Bring a resolution disassociating from the actions of the Trustee;
3. Barring the Trustee from attending all or part of a meeting of the Board or a meeting of a Committee of the Board; and/or
4. Barring the Trustee from sitting on one or more committees of the Board, for the period of time specified by the Board.

The Board may also decide not to impose any sanctions.

The vote and resolution regarding the determination that the Trustee has breached the Board's Catholic Trustee Code of Conduct, and the sanction imposed or decision not to impose a sanction shall be open to the public and recorded in the minutes of the meeting.

The Board will provide the Trustee with written notice of the decision regarding the allegation(s) and any sanction(s) to be imposed, and the Trustee will have at least 14 calendar days, as determined by the Chair, to respond to the notice orally or in writing.

After receiving the Trustee's response, within 14 days the Board will consider whether to confirm or revoke their initial decision. The meeting of the Board during which the Trustee's response to the Board's determination is considered may be closed to the public, if the issues involve matters (a) through (e) above. But, the motion and decision to confirm or revoke the initial decision shall



be open to the public and recorded in the minutes of the meeting. If the determination is confirmed, the sanction imposed may be confirmed, varied or revoked and such motion and resolution shall be open to the public and recorded in the minutes of the meeting. If the decision regarding the determination is revoked, so too will any sanction that was imposed.

The Trustee who is alleged to have breached the Board's Catholic Trustee Code of Conduct shall not vote on a resolution before the Board regarding the breach or sanction.

The Board's decision shall be communicated to the Trustee in writing within the same 14 calendar days.

A variation or revocation of the sanction shall be deemed to be effective as of the date the original determination was made.

A sanction barring a Trustee from attending all or part of a meeting of the Board shall be authorization for the Trustee to be absent from the meeting in accordance with section 228 (1) (b) of the *Education Act*.

If the Trustee of the Board is barred from attending all or part of a meeting of the Board or a meeting of a committee of the Board, the Trustee is not entitled to receive any materials that are not available to the public.

Approved: Board Meeting #07 - Wednesday, May 10, 2017
Revised: Board Meeting #05 - Wednesday, February 27, 2019 - Section 2. a)

Schedule 1

Municipal Conflict of Interest Act R.S.O. 1990, CHAPTER M.50

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”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “local board” in section 1 of the Act is amended by striking out “police services board” and substituting “police service board”. (See: 2018, c. 3, Sched. 5, s. 37)

“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; (“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; 2016, c. 23, s. 58.

Section Amendments with date in force (d/m/y)

Principles

1.1 The Province of Ontario endorses the following principles in relation to the duties of members of councils and of local boards under this Act:

1. The importance of integrity, independence and accountability in local government decision-making.
2. The importance of certainty in reconciling the public duties and pecuniary interests of members.
3. Members are expected to perform their duties of office with integrity and impartiality in a manner that will bear the closest scrutiny.
4. There is a benefit to municipalities and local boards when members have a broad range of knowledge and continue to be active in their own communities, whether in business, in the practice of a profession, in community associations, and otherwise. 2017, c. 10, Sched. 3, s. 1.

Section Amendments with date in force (d/m/y)

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).

Section Amendments with date in force (d/m/y)

Exceptions

Where ss. 5 and 5.2 do not apply

4 Sections 5 and 5.2 do 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); 2017, c. 10, Sched. 3, s. 2.

Section Amendments with date in force (d/m/y)

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).

Exception, consideration of penalty

(2.1) The following rules apply if the matter under consideration at a meeting or a part of a meeting is to consider whether to suspend the remuneration paid to the member under subsection 223.4 (5) or (6) of the *Municipal Act, 2001* or under subsection 160 (5) or (6) of the *City of Toronto Act, 2006*:

1. Despite clauses (1) (b) and (c), the member may take part in the discussion of the matter, including making submissions to council or the local board, as the case may be, and may attempt to influence the voting on any question in respect of the matter, whether before, during or after the meeting. However, the member is not permitted to vote on any question in respect of the matter.
2. Despite subsection (2), in the case of a meeting that is not open to the public, the member may attend the meeting or part of the meeting during which the matter is under consideration. 2017, c. 10, Sched. 3, s. 3.

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).

Section Amendments with date in force (d/m/y)

Written statement re disclosure

5.1 At a meeting at which a member discloses an interest under section 5, or as soon as possible afterwards, the member shall file a written statement of the interest and its general nature with the clerk of the municipality or the secretary of the committee or local board, as the case may be. 2017, c. 10, Sched. 3, s. 4.

Section Amendments with date in force (d/m/y)

Influence

5.2 (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 that is being considered by an officer or employee of the municipality or local board, or by a person or body to which the municipality or local board has delegated a power or duty, the member shall not use his or her office in any way to attempt to influence any decision or recommendation that results from consideration of the matter. 2017, c. 10, Sched. 3, s. 4.

Exception

(2) However, if a municipality delegates a power to suspend the remuneration paid to a member under subsection 223.4 (5) of the *Municipal Act, 2001* or subsection 160 (5) of the *City of Toronto Act, 2006* to a person or body, and the person or body is considering exercising that power with respect to a member, subsection (1) of this section does not prevent the member from attempting to influence any decision or recommendation of the person or body that results from consideration of the matter. 2017, c. 10, Sched. 3, s. 4.

Section Amendments with date in force (d/m/y)

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).

Registry

Requirement to establish registry

6.1 (1) Every municipality and local board shall establish and maintain a registry in which shall be kept,

- (a) a copy of each statement filed under section 5.1; and
- (b) a copy of each declaration recorded under section 6. 2017, c. 10, Sched. 3, s. 5.

Access to registry

(2) The registry shall be available for public inspection in the manner and during the time that the municipality or local board, as the case may be, may determine. 2017, c. 10, Sched. 3, s. 5.

Section Amendments with date in force (d/m/y)

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, 5.1 or 5.2 not to apply

(3) The judge may, on an application brought under subsection (2), by order, declare that section 5, 5.1 or 5.2 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); 2017, c. 10, Sched. 3, s. 6.

Section Amendments with date in force (d/m/y)

Action where Contravention Alleged

Application

8 (1) An elector, an Integrity Commissioner of a municipality or a person demonstrably acting in the public interest may apply to a judge for a determination of the question of whether,

- (a) a member has contravened section 5, 5.1 or 5.2; or
- (b) a former member contravened section 5, 5.1 or 5.2 while he or she was a member. 2017, c. 10, Sched. 3, s. 7.

Six-week period

(2) An application may only be made within six weeks after the applicant became aware of the alleged contravention. 2017, c. 10, Sched. 3, s. 7.

Exception

(3) Despite subsection (2), an application may be made more than six weeks after the applicant became aware of the alleged contravention if all of the following conditions are satisfied:

1. The applicant applied to an Integrity Commissioner for an inquiry under section 223.4.1 of the Municipal Act, 2001 or under section 160.1 of the City of Toronto Act, 2006 in accordance with

those sections.

2. The Integrity Commissioner conducted an inquiry under section 223.4.1 of the *Municipal Act, 2001* or under section 160.1 of the *City of Toronto Act, 2006* and the Commissioner,
 - i. has advised the applicant under subsection 223.4.1 (16) of the *Municipal Act, 2001* or under subsection 160.1 (16) of the *City of Toronto Act, 2006* that the Commissioner will not be making an application to a judge,
 - ii. has not completed the inquiry within the time limit set out in subsection 223.4.1 (14) of the *Municipal Act, 2001* or subsection 160.1 (14) of the *City of Toronto Act, 2006*, or
 - iii. has terminated the inquiry under subsection 223.4.1 (12) of the *Municipal Act, 2001* or subsection 160.1 (12) of the *City of Toronto Act, 2006*.
3. The application under this section includes a copy of the applicant's statutory declaration made under subsection 223.4.1 (6) of the *Municipal Act, 2001* or under subsection 160.1 (6) of the *City of Toronto Act, 2006*.
4. The application under this section is made within six weeks after the earlier of the following,
 - i. the day the Commissioner advised the applicant under subsection 223.4.1 (16) of the *Municipal Act, 2001* or under subsection 160.1 (16) of the *City of Toronto Act, 2006* that the Commissioner will not be making an application to a judge,
 - ii. the last day on which the Commissioner is required under subsection 223.4.1 (14) of the *Municipal Act, 2001* or subsection 160.1 (14) of the *City of Toronto Act, 2006* to complete the inquiry referred to in paragraph 2 of this subsection, and
 - iii. the day the inquiry was terminated under subsection 223.4.1 (12) of the *Municipal Act, 2001* or subsection 160.1 (12) of the *City of Toronto Act, 2006*. 2017, c. 10, Sched. 3, s. 7.

Same, application by Integrity Commissioner

(4) Despite subsection (2), an application may be made more than six weeks after the applicant became aware of the alleged contravention if the applicant is an Integrity Commissioner and if the application relates to an inquiry conducted by the Commissioner under section 223.4.1 of the *Municipal Act, 2001* or under section 160.1 of the *City of Toronto Act, 2006*. 2017, c. 10, Sched. 3, s. 7.

No application by Integrity Commissioner during regular election

(5) No application shall be made by an Integrity Commissioner of a municipality during the period of time starting on nomination day for a regular election, as set out in section 31 of the *Municipal Elections Act, 1996*, and ending on voting day in a regular election, as set out in section 5 of that Act. 2017, c. 10, Sched. 3, s. 7.

Limitation

(6) Despite subsections (2), (3) and (4), no application shall be made after the sixth anniversary of the alleged contravention. 2017, c. 10, Sched. 3, s. 7.

Contents of notice of application

(7) The notice of application shall state the grounds for finding that the member or former member

contravened section 5, 5.1 or 5.2. 2017, c. 10, Sched. 3, s. 7.

Section Amendments with date in force (d/m/y)

Power of judge

9 (1) If the judge determines that the member or former member contravened section 5, 5.1 or 5.2, the judge may do any or all of the following:

1. Reprimand the member or former member.
2. Suspend the remuneration paid to the member for a period of up to 90 days.
3. Declare the member's seat vacant.
4. Disqualify the member or former member from being a member during a period of not more than seven years after the date of the order.
5. If the contravention has resulted in personal financial gain, require the member or former member to make restitution to the party suffering the loss, or, if the party's identity is not readily ascertainable, to the municipality or local board, as the case may be. 2017, c. 10, Sched. 3, s. 7.

Same

(2) In exercising his or her discretion under subsection (1) the judge may consider, among other matters, whether the member or former member,

- (a) took reasonable measures to prevent the contravention;
- (b) disclosed the pecuniary interest and all relevant facts known to him or her to an Integrity Commissioner in a request for advice from the Commissioner under the *Municipal Act, 2001* or the *City of Toronto Act, 2006* and acted in accordance with the advice, if any, provided to the member by the Commissioner; or
- (c) committed the contravention through inadvertence or by reason of an error in judgment made in good faith. 2017, c. 10, Sched. 3, s. 7.

Section Amendments with date in force (d/m/y)

10 repealed: 2017, c. 10, Sched. 3, s. 7.

Section Amendments with date in force (d/m/y)

Appeal to Divisional Court

11 (1) An appeal lies from any order made under section 9 to the Divisional Court in accordance with the rules of court. R.S.O. 1990, c. M.50, s. 11 (1); 2017, c. 10, Sched. 3, s. 8.

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).

Section Amendments with date in force (d/m/y)

Proceedings not invalidated but voidable

12 (1) A member's failure to comply with section 5, 5.1 or 5.2 does not invalidate any proceedings in respect of a matter referred to in those sections, but those proceedings are voidable in the circumstances described in subsection (2). 2017, c. 10, Sched. 3, s. 9.

Declaring proceedings void

(2) Subject to subsection (3), if a member has failed to comply with section 5, 5.1 or 5.2 in respect of a matter referred to in those sections, the municipality or local board, as the case may be, may declare the proceedings to be void before the second anniversary of the date of the passing of the by-law or resolution authorizing the matter. 2017, c. 10, Sched. 3, s. 9.

Exception

(3) Subsection (2) does not apply if declaring the proceedings to be void would adversely affect the rights that any person who acted in good faith and without actual notice of the failure to comply with section 5, 5.1 or 5.2 acquired under or by virtue of the proceedings. 2017, c. 10, Sched. 3, s. 9.

Section Amendments with date in force (d/m/y)

Other proceedings prohibited

13 (1) A proceeding that relates to a member's or former member's alleged conflict of interest and seeks a remedy described in subsection 9 (1) shall be brought only under this Act. 2017, c. 10, Sched. 3, s. 9.

Same

(2) Subsection (1) does not affect the power of a municipality or a local board to reprimand a member or suspend a member's remuneration under subsection 223.4 (5) or (6) of the *Municipal Act, 2001* or under subsection 160 (5) or (6) of the *City of Toronto Act, 2006*. 2017, c. 10, Sched. 3, s. 9.

Section Amendments with date in force (d/m/y)

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, 5.1 or 5.2 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); 2017, c. 10, Sched. 3, s. 10 (1).

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 accordance with subsection 279 (2) of the *Municipal Act, 2001* or subsection 218 (3) of the *City of Toronto Act, 2006*, as the case may be. 2017, c. 10, Sched. 3, s. 10 (2).

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).

Section Amendments with date in force (d/m/y)

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.
