

Enforcement of code of conduct

218.3 (1) A member of a board who has reasonable grounds to believe that a member of the board has breached the board's code of conduct may bring the alleged breach to the attention of the board. 2009, c. 25, s. 25.

Same

(2) If an alleged breach is brought to the attention of the board under subsection (1), the board shall make inquiries into the matter and shall, based on the results of the inquiries, determine whether the member has breached the board's code of conduct. 2009, c. 25, s. 25.

Same

(3) If the board determines under subsection (2) that the member has breached the board's code of conduct, the board may impose one or more of the following sanctions:

1. Censure of the member.
2. Barring the member from attending all or part of a meeting of the board or a meeting of a committee of the board.
3. Barring the member from sitting on one or more committees of the board, for the period of time specified by the board. 2009, c. 25, s. 25.

Same

(4) For greater certainty, the imposition of a sanction under paragraph 2 of subsection (3) barring a member from attending all or part of a meeting of the board shall be deemed, for the purpose of clause 228 (1) (b), to be authorization for the member to be absent from the meeting. 2009, c. 25, s. 25.

Same

(5) A member of a board who is barred from attending all or part of a meeting of the board or a meeting of a committee of the board under subsection (3) is not entitled to receive any materials that relate to that meeting or that part of the meeting and that are not available to members of the public. 2009, c. 25, s. 25.

Same

(6) If a board determines that a member has breached the board's code of conduct under subsection (2),

(a) the board shall give the member written notice of the determination and of any sanction imposed by the board;

(b) the notice shall inform the member that he or she may make written submissions to the board in respect of the determination or sanction by a date specified in the notice that is at least 14 days after the notice is received by the member; and

(c) the board shall consider any submissions made by the member in accordance with clause (b) and shall confirm or revoke the determination within 14 days after the submissions are received. 2009, c. 25, s. 25.

Same

(7) If the board revokes a determination under clause (6) (c), any sanction imposed by the board is revoked. 2009, c. 25, s. 25.

Same

(8) If the board confirms a determination under clause (6) (c), the board shall, within the time referred to in that clause, confirm, vary or revoke the sanction. 2009, c. 25, s. 25.

Same

(9) If a sanction is varied or revoked under subsection (7) or (8), the variation or revocation shall be deemed to be effective as of the date the original determination was made under subsection (2). 2009, c. 25, s. 25.

Same

(10) Despite subsection 207 (1) but subject to subsection (11), the part of a meeting of the board during which a breach or alleged breach of the board's code of conduct is considered may be closed to the public when the breach or alleged breach involves any of the matters described in clauses 207 (2) (a) to (e). 2009, c. 25, s. 25.

Same

(11) A 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:

1. Make a determination under subsection (2) that a member has breached the board's code of conduct.

2. Impose a sanction under subsection (3).
3. Confirm or revoke a determination under clause (6) (c).
4. Confirm, vary or revoke a sanction under subsection (8). 2009, c. 25, s. 25.

Same

(12) A member who is alleged to have breached the board's code of conduct shall not vote on a resolution to do any of the things described in paragraphs 1 to 4 of subsection (11). 2009, c. 25, s. 25.

Same

(13) The passage of a resolution to do any of the things described in paragraphs 1 to 4 of subsection (11) shall be recorded in the minutes of the meeting. 2009, c. 25, s. 25.

Same

(14) The *Statutory Powers Procedure Act* does not apply to anything done under this section. 2009, c. 25, s. 25.

Note: On January 1, 2025, the day named by proclamation of the Lieutenant Governor, section 218.3 of the Act is repealed and the following substituted: (See: 2023, c. 11, Sched. 2, s. 24)

Breach of code of conduct

218.3 (1) A member of a board who has reasonable grounds to believe that a member of the board has breached the board's code of conduct may notify the following persons in writing of the alleged breach:

1. The director of education, if the notice relates to the conduct of the board chair or vice-chair.
2. In all other situations, the board chair. 2023, c. 11, Sched. 2, s. 24.

Same

(2) If a person other than those described in paragraph 1 or 2 of subsection (1) is prescribed by regulation, the notification shall be given to the prescribed person instead of the persons described in those paragraphs. 2023, c. 11, Sched. 2, s. 24.

Same

(3) If notification of an alleged breach is given under subsection (1), the person to whom the notification was made shall,

- (a) immediately provide a copy of the written notice to the member whose conduct is the subject of the alleged breach and to the entire board; and

(b) if the matter is not resolved within 10 days after the member received the notice under clause (a), or within such other time period as may be prescribed by regulation, refer the matter to an integrity commissioner appointed by the board. 2023, c. 11, Sched. 2, s. 24.

Roster

(4) The Minister may create a roster of integrity commissioners, following consultation with each trustees' association identified in the definition of that term in subsection 2 (1) of the *School Boards Collective Bargaining Act, 2014*. 2023, c. 11, Sched. 2, s. 24.

Appointment of integrity commissioner

(5) If the Minister has created a roster of integrity commissioners, an appointment under subsection (2) shall be from the roster. 2023, c. 11, Sched. 2, s. 24.

Same

(6) The qualifications for members of the roster and the processes relating to the creation of the roster are subject to any requirements prescribed by the regulations. 2023, c. 11, Sched. 2, s. 24.

Investigation

(7) Subject to subsection (8), the integrity commissioner appointed by a board shall commence an investigation into the alleged breach of the board's code of conduct no later than 14 days after being appointed under subsection (3), or within such other time period as may be prescribed by regulation, and shall provide the member with the opportunity to respond to the allegations, as well as a right of reply, where appropriate. 2023, c. 11, Sched. 2, s. 24.

Late, bad faith, frivolous or vexatious complaint

(8) An integrity commissioner may refuse to commence an investigation into an alleged breach if,

(a) the complaint was made more than 60 days after the day the alleged breach occurred or was discovered, whichever is later, unless the integrity commissioner is satisfied the delay was incurred in good faith and no substantial prejudice will result to any person affected by the delay; or

(b) in the opinion of the integrity commissioner, the complaint is made in bad faith or is frivolous or vexatious. 2023, c. 11, Sched. 2, s. 24.

Same

(9) If a breach relates to a series of incidents, the 60-day period in clause (8) (a) runs from the day the last incident in the series occurred or was discovered. 2023, c. 11, Sched. 2, s. 24.

Discovery of breach

(10) A breach is discovered on the earlier of,

(a) the day on which the member notifying the board first knew that the breach had occurred; and

(b) the day on which a reasonable person with the abilities and in the circumstances of the member notifying the board first ought to have known of the matters referred to in clause (a). 2023, c. 11, Sched. 2, s. 24.

Notice

(11) The integrity commissioner shall provide written notice of a refusal to commence an investigation to the member who is the subject of the complaint and to the board. 2023, c. 11, Sched. 2, s. 24.

Decision final

(12) A decision of an integrity commissioner under subsection (8) is final. 2023, c. 11, Sched. 2, s. 24.

Powers

(13) In the course of conducting the investigation, the integrity commissioner may,

(a) require the production of any records that may in any way relate to the investigation;

(b) examine and copy any records required under clause (a); and

(c) require any officer of the board or any other person to appear before him or her and give evidence, on oath or affirmation, relating to the investigation. 2023, c. 11, Sched. 2, s. 24.

Public Inquiries Act, 2009

(14) Section 33 of the *Public Inquiries Act, 2009* applies to an investigation. 2023, c. 11, Sched. 2, s. 24.

Time limit

(15) The integrity commissioner shall make a determination with respect to a complaint of an alleged breach no later than 90 days after commencing the investigation, or within such other time period as may be prescribed by regulation, unless the integrity commissioner notifies the board and the member who is the subject of the complaint that an extension is necessary and of the reasons for the extension. 2023, c. 11, Sched. 2, s. 24.

Transition

(16) If a member of a board brings an alleged breach of the board's code of conduct to the attention of the board before the day section 24 of Schedule 2 to the *Better Schools and Student Outcomes Act, 2023* comes into force and the board has not, as of that day, made a determination in respect of the alleged breach, section 218.3 of the Act, as it read immediately before that day, applies in respect of the alleged breach. 2023, c. 11, Sched. 2, s. 24.

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

Determination, sanctions

218.3.1 (1) If the integrity commissioner determines, following an investigation under subsection 218.3 (7), that the member has breached the board's code of conduct, the integrity commissioner may impose one or more of the following sanctions:

1. Censure of the member.
2. Requiring the board to reduce the member's honorarium by an amount not exceeding the prescribed amount, requiring the member to return any excess already paid to the member and authorizing the board to recover the excess from the member.
3. Barring the member from attending all or part of one or more meetings of the board or one or more meetings of a committee of the board, for the period of time specified by the integrity commissioner up to a maximum of 90 days or the balance of the member's term of office, whichever is less.
4. Barring the member from sitting on one or more committees of the board, for the period of time specified by the integrity commissioner, up to a maximum of 90 days or the balance of the member's term of office, whichever is less.
5. Barring the member from becoming the chair or vice-chair of the board or of any committee of the board, or removing the member from any of those positions.
6. Barring the member from exercising the privileges of a board member or acting as a board representative, or removing the member from a position the member holds as a board representative.
7. Subject to any other limits set out in paragraphs 1 to 6, any other sanction that, in the opinion of the integrity commissioner, is reasonable and appropriate in the circumstances.
8. Subject to any other limits set out in paragraphs 1 to 6, any other sanction that, in the opinion of the integrity commissioner, would promote compliance with the board's code of conduct. 2023, c. 11, Sched. 2, s. 24.

Regulation

(2) The Minister may, by regulation, prescribe an amount for the purposes of paragraph 2 of subsection (1). 2023, c. 11, Sched. 2, s. 24.

Sanction re meetings

(3) For greater certainty, the imposition of a sanction under paragraph 3 of subsection (1) barring a member from attending all or part of one meeting of the board shall be deemed, for the purpose of clause 228 (1) (b), to be authorization for the member to be absent from the meeting. 2023, c. 11, Sched. 2, s. 24.

Same

(4) A member of a board who is barred from attending all or part of a meeting of the board or a meeting of a committee of the board under subsection (1) is not entitled to receive any materials that relate to that meeting or that part of the meeting and that are not available to members of the public. 2023, c. 11, Sched. 2, s. 24.

Notice

(5) The integrity commissioner shall provide the member whose conduct was the subject of the complaint and the board written notice of a determination that the member has or has not breached the board's code of conduct and of any sanctions imposed. 2023, c. 11, Sched. 2, s. 24.

Same

(6) The written notice required under subsection (5) must include,

- (a) the reasons for the determination;
- (b) the reasons for any sanctions; and
- (c) information about the right to appeal under section 218.3.2. 2023, c. 11, Sched. 2, s. 24.

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

Appeal

218.3.2 (1) Either the board or the member whose conduct was the subject of the integrity commissioner's determination under section 218.3.1 may appeal the determination, the sanctions imposed, or both, and the board and the member are the parties to such an appeal. 2023, c. 11, Sched. 2, s. 24.

Board resolution to appeal

(2) The member whose conduct was the subject of the integrity commissioner's determination shall not vote on a board resolution to determine whether the board will appeal that determination under subsection (1). 2023, c. 11, Sched. 2, s. 24.

Notice of appeal

(3) The board or the member who appeals the integrity commissioner's determination shall give written notice of the appeal to the other party and the Deputy Minister no later than 14 days after receiving written notice of the integrity commissioner's determination, or within such other time period as may be prescribed by regulation. 2023, c. 11, Sched. 2, s. 24.

Appeal heard by panel

(4) The appeal shall be heard by a panel of three integrity commissioners appointed by the Deputy Minister or his or her delegate, but the panel shall not include the integrity commissioner whose determination is the subject of the appeal. 2023, c. 11, Sched. 2, s. 24.

Same

(5) If a roster of commissioners was created under subsection 218.3 (4), the members of the panel shall be appointed from the roster. 2023, c. 11, Sched. 2, s. 24.

Hearing

(6) The panel shall hold a hearing in accordance with the regulations. 2023, c. 11, Sched. 2, s. 24.

Determination overturned

(7) If the panel overturns the determination made by the integrity commissioner, any sanction imposed by the integrity commissioner is revoked. 2023, c. 11, Sched. 2, s. 24.

Determination upheld

(8) If the panel upholds the determination made by the integrity commissioner, the panel shall, within the time required by the regulations, uphold, vary or overturn the sanction. 2023, c. 11, Sched. 2, s. 24.

Determination varied or overturned

(9) If a sanction is varied or overturned under subsection (7) or (8), the variation or overturning shall be deemed to be effective as of the date the original determination was made under section 218.3.1. 2023, c. 11, Sched. 2, s. 24.

Final determination

(10) The decision of a panel under this section respecting the determination of the integrity commissioner is final. 2023, c. 11, Sched. 2, s. 24.

Records and information

(11) A board shall keep records and publish information on its website about each of the following:

1. A matter referred to an integrity commissioner under subsection 218.3 (3).
2. A decision of the integrity commissioner under subsection 218.3 (8).
3. A determination of an integrity commissioner under section 218.3.1.
4. A determination by a panel under subsection (7) or (8). 2023, c. 11, Sched. 2, s. 24.

Same

(12) Where the alleged breach of the board's code of conduct or the determination regarding the breach involves any of the matters described in clauses 207 (2) (a) to (e), the board shall publish only such information as is appropriate. 2023, c. 11, Sched. 2, s. 24.

Same

(13) The *Statutory Powers Procedure Act* does not apply to anything done under section 218.3 or 218.3.1 or this section. 2023, c. 11, Sched. 2, s. 24.

Same

(14) The powers under sections 218.3 and 218.3.1 and this section shall be exercised in a manner that is consistent with,

- (a) the denominational aspects of a Roman Catholic board;
- (b) the denominational aspects of a Protestant separate school board;
- (c) the linguistic or cultural aspects of a French-language district school board; or
- (d) the linguistic or cultural aspects of the Centre Jules-Léger Consortium. 2023, c. 11, Sched. 2, s. 24.

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

Regulations re codes of conduct

218.3.3 The Lieutenant Governor in Council may make regulations respecting codes of conduct and processes relating to alleged breaches of a code of conduct, including regulations,

- (a) prescribing the person to whom notice must be given under subsection 218.3 (2);
- (b) prescribing a time period for the purposes of clause 218.3 (3) (b) for referring a matter to an integrity commissioner;
- (c) prescribing the qualifications of integrity commissioners;
- (d) prescribing fees to be paid to integrity commissioners, or the manner of calculating such fees, and requiring boards to pay them;
- (e) prescribing the process, including the participants and their roles in the process, by which a person may be added to the roster of integrity commissioners;
- (f) governing reviews of the roster of integrity commissioners, which may include prescribing the timing and frequency of reviews and how long a person may be on the roster;
- (g) prescribing rules and procedures that shall apply to the conduct of an investigation of an alleged breach of a board's code of conduct and to the process of making a determination whether there was a breach;
- (h) prescribing a time period for the purposes of subsection 218.3.2 (3) for giving a written notice of appeal;
- (i) governing hearings required under subsection 218.3.2 (6) and prescribing rules and procedures that shall apply to the hearings. 2023, c. 11, Sched. 2, s. 24.