



DURHAM DISTRICT SCHOOL BOARD

NOTICE OF MEETING

GOVERNANCE AND POLICY COMMITTEE PUBLIC SESSION

Chair: Tracy Brown

Vice Chair: Shailene Panylo

DATE: Wednesday, September 27, 2023

TIME: 6:00 p.m.

LOCATION: Hybrid

ATTACHMENTS: Agenda

Copies to:

All Trustees and Student Trustees

Director of Education

All Superintendents

GOVERNANCE AND POLICY COMMITTEE MEETING
Wednesday, September 27, 2023
6:00 p.m.

	PAGE
1. <u>Call to Order</u>	Verbal
2. <u>Land Acknowledgement</u>	Verbal
<p>The Durham District School Board acknowledges that many Indigenous Nations have longstanding relationships, both historic and modern, with the territories upon which our school board and schools are located. Today, this area is home to many Indigenous peoples from across Turtle Island. We acknowledge that the Durham Region forms a part of the traditional and treaty territory of the Mississaugas of Scugog Island First Nation, the Mississauga Peoples and the treaty territory of the Chippewas of Georgina Island First Nation. It is on these ancestral and treaty lands that we teach, learn and live.</p>	
3. <u>Declarations of Interest</u>	Verbal
4. <u>Motion to Approve Agenda</u>	Verbal
5. <u>Minutes</u>	
(a) DRAFT minutes of the Governance and Policy Committee meeting of May 24, 2023	1 – 12
6. <u>Recommended Actions</u>	
(a) July 10, 2023 Resolution: COVID-19 Update (Trustee Shailene Panylo)	13 – 17
(b) Rescission of Use of Service Animals in Schools Policy (Superintendent Andrea McAuley)	18 – 35
(c) Revised Privacy Policy and Rescission of Regulation (General Counsel Patrick Cotter, Legal Counsel Phanny Im)	36 – 88
(d) Revised Trustee Criminal Reference Checks Policy and Rescission of Regulation (Superintendent Heather Mundy)	89 – 97
(e) Timing of Organizational Meeting and Clarification of Other Meeting Dates (General Counsel Patrick Cotter)	98–101

7. Information Items

Adjournment



Minutes - Governance and Policy Committee Meeting
Wednesday, May 24, 2023, 6:00 p.m., Hybrid

1. Call to Order

Trustee Tracy Brown, Committee Chair, called the meeting to order at 6:06 p.m.

Members Present: Trustees Emma Cunningham (virtual, arrived 7:00 p.m.), Donna Edwards, Kelly Miller, Carolyn Morton, Shailene Panylo, Christine Thatcher, Jill Thompson, Student Trustee Ben Cameron (virtual)

Not in Attendance: Trustees Michelle Arseneault, Stephen Linton, Deb Oldfield, Linda Stone, Student Trustees Gwen Kuyt, Lauren Edwards

Staff Present: Director of Education Camille Williams-Taylor, Associate Director Jim Markovski, General Counsel Patrick Cotter, Interim Executive Lead Kathy Witherow, Superintendents of Education Stephen Nevills, Heather Mundy, Margaret Lazarus, Policy Analyst Ahmad Khawaja (virtual), Communications Manager Cory Wilkins

Guests: Lori Lukinuk

Recording Secretary: Gillian Venning

2. Land Acknowledgment

Trustee Tracy Brown gave the Land Acknowledgement: the Durham District School Board acknowledges that many Indigenous Nations have longstanding relationships, both historic and modern, with home to many Indigenous peoples from across Turtle Island (North America). We acknowledge that the Durham Region forms a part of the traditional and treaty territory of the Mississaugas of Scugog Island First Nation, the Mississauga Peoples and the treaty territory of the Chippewas of Georgina Island First Nation. It is on these ancestral and treaty lands that we teach, learn and live.

3. Declarations of Interest

There were no declarations of interest.

4. Approval of Agenda

MOVED by Trustee Carolyn Morton

THAT THE AGENDA BE APPROVED.

5. Approval of Minutes – March 29, 2023

MOVED by Trustee Stephen Linton

THAT THE DRAFT MINUTES OF THE MARCH 29, 2023 GOVERNANCE AND POLICY COMMITTEE MEETING BE APPROVED.

CARRIED

6. Recommended Actions

(a) Rescission of Recognition of Long Service and Retirement of Employees Policy and Regulation and Revised Procedure

Superintendent of People and Culture Heather Mundy introduced the report, noting that staff have undertaken a review of this policy and regulation which has resulted in revisions to the procedure and a recommendation to rescind both the policy and regulation as they are now dealt with through the revised procedure and in the Safe and Respectful Workplace and Harassment Prevention Policy.

There were no Trustee questions.

MOVED by Trustee Donna Edwards

THAT THE GOVERNANCE AND POLICY COMMITTEE RECOMMEND TO THE BOARD OF TRUSTEES THAT THE RECOGNITION OF LONG SERVICE AND RETIREMENT OF EMPLOYEES POLICY AND REGULATION BE BROUGHT FORWARD FOR RESCISSION AT THE NEXT REGULAR BOARD MEETING.

CARRIED

(b) Rescission of Contests in Art Sponsored by Outside Agencies Policy and Regulation

Superintendent of Equitable Education Stephen Nevills introduced the report, noting that staff have undertaken a review of the Contests in Art Policy and regulation. It is recommended that the policy as outlined in the report be rescinded as it is either redundant or dealt with through other DDSB policies and procedures or Ministry of Education directives. It is recommended that the regulation as outlined in the report be rescinded in accordance with the Board's direction to phase out Regulations.

There were no Trustee questions.

MOVED by Trustee Christine Thatcher

THAT THE GOVERNANCE AND POLICY COMMITTEE RECOMMEND TO THE BOARD OF TRUSTEES THAT THE CONTESTS IN ART SPONSORED BY

OUTSIDE AGENCIES POLICY AND REGULATION BE BROUGHT FORWARD FOR RESCISSION AT THE NEXT REGULAR BOARD MEETING.

CARRIED

(c) Revised French Instruction Policy and Procedure

Superintendent of Equitable Education Margaret Lazarus introduced the report, noting that staff have undertaken a review of the French Instruction Policy and Procedure to ensure alignment with the DDSB's Indigenous Education Policy and the Human Rights, Anti-Discrimination and Anti-Racism Policy as well as a proposed name change to the French Programs Policy and Procedure.

Trustee questions were answered.

MOVED by Trustee Carolyn Morton

THAT THE GOVERNANCE AND POLICY COMMITTEE RECOMMEND THAT AT THE NEXT REGULAR BOARD MEETING THE BOARD OF TRUSTEES ADOPT THE REVISED FRENCH INSTRUCTION POLICY, INCLUDING THE ADDITIONAL CHANGE TO SECTION 2.2 TO INCLUDE THE TERM ABLEISM AND ANTI-ABLEISM AFTER ANTI-DISCRIMINATORY, INCLUDING A NAME CHANGE TO FRENCH PROGRAMS POLICY.

CARRIED

(d) Bylaw Amendments Referred to the Governance and Policy Committee

General Counsel Patrick Cotter introduced the report, noting that at the May 15, 2023 Board meeting and May 23 continuation of the Board meeting, several sections of the draft revised Bylaws were approved, while revisions to sections 5.13.5 and 5.13.15 proposed by the Governance and Policy Committee were referred back to the Committee for further discussion. Suggested revised language was provided in the report for trustees to consider that is based on a recent Divisional Court decision (Gillies v. Bluewater DSB) that is included in Appendix A of the report.

The Committee reviewed each section of the Bylaws that were referred back to the Committee as well as additional related sections and discussion followed.

Section 5.13.5:

MOVED by Trustee Shailene Panylo
SECONDED by Trustee Jill Thompson

THAT THE PREAMBLE TO SECTION 5.13.5 BE AMENDED TO INCLUDE 'IN CONSIDERING WHETHER TO GRANT APPROVAL:' AFTER 'SHALL' AND THAT SECTION 5.13.5 (a) BE AMENDED TO INCLUDED 'CONSIDER' AS THE FIRST WORD OF THE SUBSECTION SO THAT THE REVISED 5.13.5 PREAMBLE AND SUBECTION (a) READ AS FOLLOWS:

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ANY APPLICATION TO PRESENT AT COMMITTEE OF THE WHOLE-STANDING COMMITTEE MAY BE APPROVED AT THE GOOD FAITH DISCRETION OF THE CHAIR OF THE COMMITTEE OF THE WHOLE-STANDING, WHO SHALL, IN CONSIDERING WHETHER TO GRANT APPROVAL:

(a) CONSIDER IF AN OPPORTUNITY FOR PRESENTATION IS AVAILABLE THROUGH ANY OTHER PUBLIC CONSULTATION PROCESS, WHICH SHALL BE UTILIZED PRIOR TO APPROVAL BEING GIVEN;

CARRIED

MOVED by Trustee Carolyn Morton
SECONDED by Trustee Christine Thatcher

THAT IN ADDITION TO THE REVISIONS TO SECTION 5.13.5 (b) AS NOTED IN THE REPORT, SUBSECTION (b) BE FURTHER AMENDED TO REMOVE THE WORD 'PROPER' AND THAT THE REVISED 5.13.5 (b) READ AS FOLLOWS:

CONSIDER IF THE MATTER IS A MATTER WITHIN THE SCOPE AND AUTHORITY OF THE BOARD OF TRUSTEES OR WHETHER THE MATTER IS OPERATIONAL IN NATURE OR WITHIN THE JURISDICTION OF THE MINISTRY OF EDUCATION OR SOME OTHER ENTITY;

CARRIED

MOVED by Trustee Christine Thatcher
SECONDED by Trustee Shailene Panylo

THAT SECTION 5.13.5 (c) BE AMENDED TO INCLUDE 'WITH A SUMMARY NOTE AS TO THE NATURE OF THE PRESENTATION AND THE BASIS OF THE DENIAL.' AFTER 'BY EMAIL' AND THAT THE REVISED 5.13.5 (c) READ AS FOLLOWS:

CONSIDER WHETHER THE PROPOSED PRESENTATION WOULD BE CONSISTENT WITH THE BOARD'S COMMITMENTS AND STATUTORY DUTIES AND RESPONSIBILITIES UNDER THE EDUCATION ACT, THE ONTARIO HUMAN RIGHTS CODE, THE BOARD'S HUMAN RIGHTS POLICY AND/OR THE BOARD'S INDIGENOUS EDUCATION POLICY. IF THERE IS CONCERN WITH THE MANNER IN WHICH A PROPOSED PRESENTATION IS DESIGNED OR FRAMED, THE REQUESTER IS TO BE GIVEN AN OPPORTUNITY TO RECTIFY THE ISSUE PRIOR TO ANY DENIAL. IF THE DENIAL IS MAINTAINED, THE PROPOSED PRESENTATION SHALL NONETHELESS BE CIRCULATED TO ALL TRUSTEES BY EMAIL WITH A SUMMARY NOTE AS TO THE NATURE OF THE PRESENTATION AND THE BASIS OF THE DENIAL.

MOVED by Trustee Stephen Linton
SECONDED by Trustee Carolyn Morton

THAT THE ABOVE FOREGOING MOTION BE AMENDED TO INCLUDE THE FOLLOWING TWO NEW SENTENCES AT THE END: 'ANY TRUSTEE CONCERNED ABOUT THE DENIAL OF A PROPOSAL MAY BRING A MOTION AT THE NEXT MEETING OF THE BOARD FOR CONSIDERATION OF THE PRESENTATION. ANY MOTION IS NOT DEBATABLE AND SHALL REFERENCE THE SUMMARY NOTE BUT NOT INCLUDE THE PROPOSED PRESENTATION.' AND THAT THE REVISED 5.13.5 (c) READ AS FOLLOWS:

CONSIDER WHETHER THE PROPOSED PRESENTATION WOULD BE CONSISTENT WITH THE BOARD'S COMMITMENTS AND STATUTORY DUTIES AND RESPONSIBILITIES UNDER THE EDUCATION ACT, THE ONTARIO HUMAN RIGHTS CODE, THE BOARD'S HUMAN RIGHTS POLICY AND/OR THE BOARD'S INDIGENOUS EDUCATION POLICY. IF THERE IS CONCERN WITH THE MANNER IN WHICH A PROPOSED PRESENTATION IS DESIGNED OR FRAMED, THE REQUESTER IS TO BE GIVEN AN OPPORTUNITY TO RECTIFY THE ISSUE PRIOR TO ANY DENIAL. IF THE DENIAL IS MAINTAINED, THE PROPOSED PRESENTATION SHALL NONETHELESS BE CIRCULATED TO ALL TRUSTEES BY EMAIL WITH A SUMMARY NOTE AS TO THE NATURE OF THE PRESENTATION AND THE BASIS OF THE DENIAL. ANY TRUSTEE CONCERNED ABOUT THE DENIAL OF A PROPOSAL MAY BRING A MOTION AT THE NEXT MEETING OF THE BOARD FOR CONSIDERATION OF THE PRESENTATION. ANY MOTION IS NOT DEBATABLE AND SHALL REFERENCE THE SUMMARY NOTE BUT NOT INCLUDE THE PROPOSED PRESENTATION.

MOVED by Trustee Shailene Panylo
 SECONDED by Trustee Emma Cunningham

THAT THE ABOVE FOREGOING MOTION BE AMENDED WITH THE FOLLOWING CHANGES TO THE TWO NEW SENTENCES AT THE END: 'IF TWO OR MORE TRUSTEES ARE CONCERNED ABOUT THE DENIAL OF A PROPOSAL, A MOTION MAY BE BROUGHT AT THE NEXT MEETING OF THE BOARD FOR CONSIDERATION OF THE PRESENTATION AND SHALL REFERENCE THE SUMMARY NOTE BUT NOT INCLDE THE PROPOSED PRESENTATION. ANY MOTION IS DEBATABLE AND, WHERE APPROPROATE, THE BOARD MAY MOVE INTO CLOSED SESSION OF COMMITTEE OF THE WHOLE TO CONSIDER THE MATTER SHALL REFERENCE THE SUMMARY NOTE BUT NOT INCLUDE THE PROPOSED PRESENTATION.' AND THAT THE REVISED 5.13.5 (c) READ AS FOLLOWS:

CONSIDER WHETHER THE PROPOSED PRESENTATION WOULD BE CONSISTENT WITH THE BOARD'S COMMITMENTS AND STATUTORY DUTIES AND RESPONSIBILITIES UNDER THE EDUCATION ACT, THE ONTARIO HUMAN RIGHTS CODE, THE BOARD'S HUMAN RIGHTS POLICY AND/OR THE BOARD'S INDIGENOUS EDUCATION POLICY. IF THERE IS CONCERN WITH THE MANNER IN WHICH A PROPOSED PRESENTATION IS DESIGNED OR FRAMED, THE REQUESTER IS TO BE GIVEN AN OPPORTUNITY TO RECTIFY THE ISSUE PRIOR TO ANY DENIAL. IF THE DENIAL IS MAINTAINED, THE PROPOSED PRESENTATION SHALL NONETHELESS BE CIRCULATED TO ALL TRUSTEES BY EMAIL WITH A SUMMARY NOTE AS TO THE NATURE OF THE PRESENTATION AND THE

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BASIS OF THE DENIAL. IF TWO OR MORE TRUSTEES ARE CONCERNED ABOUT THE DENIAL OF A PROPOSAL, A MOTION MAY BE BROUGHT AT THE NEXT MEETING OF THE BOARD FOR CONSIDERATION OF THE PRESENTATION AND SHALL REFERENCE THE SUMMARY NOTE BUT NOT INCLUDE THE PROPOSED PRESENTATION. ANY MOTION IS DEBATABLE AND, WHERE APPROPRIATE, THE BOARD MAY MOVE INTO CLOSED SESSION OF COMMITTEE OF THE WHOLE TO CONSIDER THE MATTER SHALL REFERENCE THE SUMMARY NOTE BUT NOT INCLUDE THE PROPOSED PRESENTATION.

MOVED by Trustee Shailene Panylo
SECONDED by Trustee Stephen Linton

THAT THE ABOVE FOREGOING MOTION BE AMENDED TO REMOVE THE LAST SENTENCE AND TO ADD THE FOLLOWING ADDITIONAL SENTENCES: 'PROVIDED THERE IS A TWO-THIRDS MAJORITY TO HAVE THE MOTION DEBATED, THE CHAIR WILL DECLARE THE MOTION TO BE ON THE FLOOR AND IT IS DEBATABLE. WHERE APPROPRIATE, THE BOARD MAY MOVED INTO CLOSED SESSION OF COMMITTEE OF THE WHOLE TO DEBATE THE MATTER. IN THE ABSENCE OF A TWO-THIRDS MAJORITY, THE MOTION IS NOT DEBATABLE AND THE CHAIR SHALL CALL A VOTE.'

Following discussion to clarify the amendments to the original motion, it was determined that the amendments to Section 5.13.5 (c) would be dealt with through three separate motions as follows:

Motion 1:

THAT THE FOLLOWING BE INCLUDED IN SECTION 5.13.5 (c):

PROVIDED THERE IS A TWO-THIRDS MAJORITY TO HAVE THE MOTION DEBATED, THE CHAIR WILL DECLARE THE MOTION TO BE ON THE FLOOR AND IT IS DEBATABLE. WHERE APPROPRIATE, THE BOARD MAY MOVED INTO CLOSED SESSION OF COMMITTEE OF THE WHOLE TO DEBATE THE MATTER. IN THE ABSENCE OF A TWO-THIRDS MAJORITY, THE MOTION IS NOT DEBATABLE AND THE CHAIR SHALL CALL A VOTE.

The motion was carried on a recorded vote:

<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Abstain</u>
Emma Cunningham		Michelle Arseneault	
Donna Edwards		Deb Oldfield	
Stephen Linton		Linda Stone	
Kelly Miller			
Carolyn Morton			
Shailene Panylo			
Christine Thatcher			
Jill Thompson			
Tracy Brown			

Student Trustees

Ben Cameron

Lauren Edwards

Gwen Kuyt

Motion 2:

THAT THE FOLLOWING BE INCLUDED IN SECTION 5.13.5 (c):

IF THE DENIAL IS MAINTAINED, THE PROPOSED PRESENTATION SHALL NONETHELESS BE CIRCULATED TO ALL TRUSTEES BY EMAIL WITH A SUMMARY NOTE AS TO THE NATURE OF THE PRESENTATION AND THE BASIS OF THE DENIAL. IF TWO OR MORE TRUSTEES ARE CONCERNED ABOUT THE DENIAL OF A PROPOSAL, A MOTION MAY BE BROUGHT AT THE NEXT MEETING OF THE BOARD FOR CONSIDERATION OF THE PRESENTATION AND SHALL REFERENCE THE SUMMARY NOTE BUT NOT INCLUDE THE PROPOSED PRESENTATION.

The motion was carried on a recorded vote:

Yes

Emma Cunningham

Donna Edwards

Stephen Linton

Kelly Miller

Carolyn Morton

Shailene Panylo

Christine Thatcher

Jill Thompson

Tracy Brown

NoAbsent

Michelle Arseneault

Deb Oldfield

Linda Stone

AbstainStudent Trustees

Ben Cameron

Lauren Edwards

Gwen Kuyt

Motion 3:

THAT 5.13.5 (c) BE AMENDED TO THE FOLLOWING:

CONSIDER WHETHER THE PROPOSED PRESENTATION WOULD BE CONSISTENT WITH THE BOARD'S COMMITMENTS AND STATUTORY DUTIES AND RESPONSIBILITIES UNDER THE EDUCATION ACT, THE ONTARIO HUMAN RIGHTS CODE, THE BOARD'S HUMAN RIGHTS POLICY AND/OR THE BOARD'S INDIGENOUS EDUCATION POLICY. IF THERE IS CONCERN WITH THE MANNER IN WHICH A PROPOSED PRESENTATION IS DESIGNED OR FRAMED, THE REQUESTER IS TO BE GIVEN AN OPPORTUNITY TO RECTIFY THE ISSUE PRIOR TO ANY DENIAL. IF THE DENIAL IS MAINTAINED, THE PROPOSED PRESENTATION SHALL NONETHELESS BE CIRCULATED TO ALL TRUSTEES BY EMAIL WITH A SUMMARY NOTE AS TO THE NATURE OF THE PRESENTATION AND THE BASIS OF THE DENIAL. IF TWO OR MORE TRUSTEES ARE CONCERNED

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ABOUT THE DENIAL OF A PROPOSAL, A MOTION MAY BE BROUGHT AT THE NEXT MEETING OF THE BOARD FOR CONSIDERATION OF THE PRESENTATION AND SHALL REFERENCE THE SUMMARY NOTE BUT NOT INCLUDE THE PROPOSED PRESENTATION. PROVIDED THERE IS A TWO THIRDS MAJORITY TO HAVE THE MOTION DEBATED, THE CHAIR WILL DECLARE THE MOTION TO BE ON THE FLOOR AND IT IS DEBATABLE. WHERE APPROPRIATE, THE BOARD MAY MOVE INTO CLOSED SESSION OF COMMITTEE OF THE WHOLE TO DEBATE THE MATTER. IN THE ABSENCE OF A TWO THIRDS MAJORITY, THE MOTION IS NOT DEBATABLE AND THE CHAIR SHALL CALL A VOTE.

The motion was carried on a recorded vote:

<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Abstain</u>
Emma Cunningham		Michelle Arseneault	
Donna Edwards		Deb Oldfield	
Stephen Linton		Linda Stone	
Kelly Miller			
Carolyn Morton			
Shailene Panylo			
Christine Thatcher			
Jill Thompson			
Tracy Brown			
<u>Student Trustees</u>			
Ben Cameron		Lauren Edwards	
		Gwen Kuyt	

MOVED by Trustee Shailene Panylo
SECONDED by Trustee Stephen Linton

THAT 5.13.15 (d) BE AMENDED TO THE FOLLOWING:

CONSIDER THE TIME AVAILABLE FOR PRESENTATIONS AT A GIVEN MEETING AND WHETHER ALLOWING THE PROPOSED PRESENTATION WILL ALLOW THE COMMITTEE OF THE WHOLE-STANDING SUFFICIENT TIME TO CONDUCT ITS BUSINESS.

CARRIED

Section 5.13.15:

MOVED by Trustee Jill Thompson
SECONDED by Trustee Donna Edwards

THAT 5.13.15 BE AMENDED TO INCLUDE 'THE QUESTION' AFTER 'OTHERWISE LIMIT' AND THAT THE REVISED SECTION 5.13.15 READ AS FOLLOWS:

THE BOARD RESERVES THE RIGHT TO DENY AN INDIVIDUAL OR PARTY THE OPPORTUNITY TO ASK A QUESTION, OR TO OTHERWISE LIMIT THE

QUESTION WHERE THE QUESTION IS DESIGNED OR FRAMED IN A MANNER THAT WOULD BE CONTRARY TO THE BOARD'S COMMITMENTS AND STATUTORY DUTIES AND RESPONSIBILITIES UNDER THE EDUCATION ACT, THE ONTARIO HUMAN RIGHTS CODE, THE BOARD'S HUMAN RIGHTS POLICY AND/OR THE BOARD'S INDIGENOUS EDUCATION POLICY AND PROCEDURES. IF THERE IS CONCERN WITH THE MANNER IN WHICH A PROPOSED QUESTION IS DESIGNED OR FRAMED, THE REQUESTER IS TO BE GIVEN AN OPPORTUNITY TO RECTIFY THE ISSUE PRIOR TO ANY DENIAL. IF THE DENIAL IS MAINTAINED, THE PROPOSED QUESTION SHALL NONETHELESS BE CIRCULATED TO ALL TRUSTEES BY EMAIL.

CARRIED

Section 5.13.16:

MOVED by Trustee Kelly Miller

SECONDED by Trustee Shailene Panylo

THAT SECTION 5.13.16 BE AMENDED TO (1) REMOVE SUBSECTION (a) AND REPLACE IT WITH THE CURRENT SUBSECTION (b) AND (2) THAT THE FOLLOWING BE ADDED AS THE NEW SUBSECTION (b): THE APPROVED QUESTION SHALL BE DISPLAYED ON THE SCREENS IN THE BOARDROOM; AND (3) THAT THE CURRENT SUBSECTION (c) BE REVISED TO: 'THE QUESTIONER SHALL BE ALLOWED TO ASK THE APPROVED QUESTION. AT THE DISCRETION OF THE CHAIR, THE QUESTIONER MAY BE PROMPTED IF FURTHER CLARIFICATION IS REQUIRED ON THE ANSWER PROVIDED AND/OR DIRECT THE QUESTIONER TO THE EMAIL ADDRESS TO WHICH THE QUESTION MAY BE SUBMITTED;' AND (4) THAT THE CURRENT SUBSECTION (d) BE REVISED TO: 'THE QUESTIONER SHALL HAVE THE OPTION TO ASK THEIR QUESTION IN-PERSON OR VIRTUALLY SUBJECT TO AVAILABILITY AND AT THE DISCRETION OF THE CHAIR;' AND (5) THAT THE REMAINING SUBSECTIONS BE RENUMBERED SO THAT SECTION 5.13.16 READS AS FOLLOWS:

- A) BEFORE THE BEGINNING OF THE BOARD MEETING, THE QUESTIONER SHALL SUBMIT THE QUESTION IN WRITING THROUGH THE APPROPRIATE FORM MADE AVAILABLE ON THE DDSB WEBSITE;
- B) THE APPROVED QUESTION SHALL BE DISPLAYED ON THE SCREENS IN THE BOARDROOM;
- C) THE QUESTIONER SHALL BE ALLOWED TO ASK THE APPROVED QUESTION. AT THE DISCRETION OF THE CHAIR, THE QUESTIONER MAY BE PROMPTED IF FURTHER CLARIFICATION IS REQUIRED ON THE ANSWER PROVIDED AND/OR DIRECT THE QUESTIONER TO THE EMAIL ADDRESS TO WHICH THE QUESTION MAY BE SUBMITTED;
- D) THE QUESTIONER SHALL HAVE THE OPTION TO ASK THEIR QUESTION IN-PERSON OR VIRTUALLY SUBJECT TO AVAILABILITY AND AT THE DISCRETION OF THE CHAIR;
- E) THE QUESTIONER OR, IF THE QUESTIONER PREFERS, THE CHAIR, SHALL READ THE QUESTION;

- F) THE QUESTION SHALL BE ADDRESSED BY THE CHAIR WHO MAY DIRECT STAFF TO ANSWER;
- G) QUESTIONS TO INDIVIDUAL TRUSTEES OR STAFF WILL NOT BE ADDRESSED AT PUBLIC QUESTION PERIOD;
- H) INDIVIDUAL TRUSTEES WILL NOT RESPOND OR COMMENT ON QUESTION.

CARRIED

Section 5.13.14:

MOVED by Trustee Jill Thompson
 SECONDED by Trustee Stephen Linton

THAT 5.13.14 BE AMENDED TO INCLUDE THE FOLLOWING NEW SENTENCE: 'IN ORDER TO COMPLETE THE BUSINESS OF THE BOARD, PUBLIC QUESTION PERIOD SHALL NOT EXCEED 30 MINUTES. TIME MAY BE EXTENDED IN EXTENUATING OR SPECIAL CIRCUMSTANCES AT THE DISCRETION OF THE CHAIR OR A MAJORITY OF THE BOARD. ANY APPROVED QUESTIONS NOT ANSWERED AT THE BOARD MEETING, SHALL BE RESPONDED TO THROUGH THE WEBSITE.' SO THAT THE REVISED 5.13.14 READS AS FOLLOWS:

THE BOARD ENCOURAGES QUESTIONS ON A WIDE VARIETY OF TOPICS, WHILE MAKING SURE THAT ADEQUATE TIME IS AVAILABLE FOR REGULAR BUSINESS. THE CHAIR SHALL ESTABLISH TIME LIMITATIONS AS NECESSARY TO ACHIEVE THESE OBJECTIVES AND MAY GROUP TOGETHER QUESTIONS OF A SIMILAR NATURE. IN ORDER TO COMPLETE THE BUSINESS OF THE BOARD, PUBLIC QUESTION PERIOD SHALL NOT EXCEED 30 MINUTES. TIME MAY BE EXTENDED IN EXTENUATING OR SPECIAL CIRCUMSTANCES AT THE DISCRETION OF THE CHAIR OR A MAJORITY OF THE BOARD. ANY APPROVED QUESTIONS NOT ANSWERED AT THE BOARD MEETING SHALL BE RESPONDED TO THROUGH THE WEBSITE.

CARRIED

MOVED by Trustee Donna Edwards
 SECONDED by Trustee Shailene Panylo

THAT ANY CHANGES TO THE CONSOLIDATED BYLAWS GO FORWARD TO THE NEXT REGULAR BOARD MEETING AS A RECOMMENDED ACTION.

CARRIED

(e) Revised Board Member Code of Conduct

General Counsel Patrick Cotter introduced the report, noting that it is being presented for consideration with revisions to Sections 6.44 to 6.51 as requested by the Committee at the March 29, 2023 meeting.

MOVED by Trustee Stephen Linton
SECONDED by Trustee Kelly Miller

THAT SECTIONS 6.44 AND 6.45 OF THE BOARD MEMBER CODE OF CONDUCT BE REVISED AS NOTED IN APPENDIX A.

CARRIED

MOVED by Trustee Kelly Miller
SECONDED by Trustee Donna Edwards

THAT SECTION 6.46 OF THE BOARD MEMBER CODE OF CONDUCT AS NOTED WITH STRIKETHROUGH IN APPENDIX A BE DELETED.

CARRIED

MOVED by Trustee Christine Thatcher
SECONDED by Trustee Carolyn Morton

THAT SECTIONS 6.46 AND 6.47 OF THE BOARD MEMBER CODE OF CONDUCT BE REVISED AS NOTED IN APPENDIX A.

CARRIED

MOVED by Trustee Donna Edwards
SECONDED by Trustee Jill Thompson

THAT SECTION 6.48 OF THE BOARD MEMBER CODE OF CONDUCT BE DELETED.

CARRIED

MOVED by Trustee Carolyn Morton
SECONDED by Trustee Christine Thatcher

THAT THE BOARD MEMBER CODE OF CONDUCT BE REVISED TO INCLUDE THE UNNUMBERED PARAGRAPH BELOW SECTION 6.48 IN APPENDIX A.

CARRIED

MOVED by Trustee Carolyn Morton
SECONDED by Trustee Christine Thatcher

THAT SECTION 6.49 OF THE BOARD MEMBER CODE OF CONDUCT BE DELETED.

CARRIED

MOVED by Trustee Carolyn Morton
SECONDED by Trustee Christine Thatcher

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THAT ANY CHANGES TO THE BOARD MEMBER CODE OF CONDUCT AS OUTLINED IN PAGE 85 OF THE AGENDA GO FORWARD TO THE NEXT REGULAR BOARD MEETING AS A RECOMMENDED ACTION.

CARRIED

7. Information Items

(a) Process for Adding Items to Meeting Agendas

General Counsel Patrick Cotter introduced the report, noting that it outlines the process for agenda planning and having matters placed on meeting agendas.

There were no trustee questions.

8. Adjournment

MOVED by Trustee Stephen Linton

THAT THE MEETING DOES NOW ADJOURN.

CARRIED

The meeting adjourned at 9:24 p.m.

DURHAM DISTRICT SCHOOL BOARD ADMINISTRATIVE REPORT

REPORT TO: Governance and Policy Committee **DATE:** September 27, 2023

SUBJECT: July 10, 2023 Board Resolution: COVID-19 Update **PAGE:** 1 of 2

ORIGIN: Patrick Cotter, General Counsel
Robert Cerjanec, Executive Lead, Strategic Initiatives and External Relations

1.0 Purpose

The purpose of this report is to bring forward a matter that was referred to the Governance and Policy Committee by the Board of Trustees pursuant to a resolution dated July 10, 2023.

2.0 Ignite Learning Strategic Priority/Operational Goals

Success – *Set high expectations and provide support to ensure all staff and students reach their potential every year.*

Well-being – *Create safe, welcoming, inclusive learning spaces to promote well-being for all students and staff.*

Leadership – *Identify future leaders, actively develop new leaders and responsively support current leaders.*

Equity – *Promote a sense of belonging and increase equitable outcomes for all by identifying and addressing barriers to success and engagement.*

Engagement – *Engage students, parents and community members to improve student outcomes and build public confidence.*

Innovation – *Re-imagine learning and teaching spaces through digital technologies and innovative resources.*

3.0 Background

At the July 10, 2023 Special Board meeting, staff delivered a report on COVID-19 reporting and recommended the rescission of a Resolution adopted by the Board on January 5, 2022, regarding COVID-19 case reporting and communication. The July 10 report from staff is attached as Appendix A.

Following presentation of the report on July 10, 2023, the Board referred the matter to the Governance and Policy Committee in the following terms:

THAT THE BOARD REFER THE RESCINDING OF THE FOLLOWING RESOLUTION TO THE NEXT GOVERNANCE AND POLICY COMMITTEE MEETING:

THAT THE BOARD OF TRUSTEES RESCIND THE FOLLOWING RESOLUTION THAT WAS ADOPTED AT THE JANUARY 5, 2022, SPECIAL BOARD MEETING:

- a) THAT THE DIRECTOR OF EDUCATION, AND/OR HER DESIGNATES, TAKE ALL REASONABLE STEPS TO PUBLICLY REPORT DATA, TO THE EXTENT IT IS AVAILABLE, ON CONFIRMED AND PRESUMED CASES IN DDSB SCHOOLS;

- b) THAT THE DDSB ENSURE FAMILIES AND STAFF HAVE A MECHANISM FOR SELF-REPORTING FOR THOSE WHO HAVE ACCESS TO TESTS;
- c) THAT THE BOARD PROVIDE INFORMATION ON SCHOOL AND CLASS CLOSURES AND UNUSUAL RATES OF ABSENTEEISM IN SCHOOL COMMUNITIES;
- d) AND SHOULD THE GOVERNMENT ALTER ITS DIRECTION ON THE COLLECTION OF THIS DATA, THE BOARD WILL REVISIT ITS POSITION.

4.0 Recommendation

That the Governance and Policy Committee recommend to the Board of Trustees that it rescind the January 5, 2022 Resolution of the Board which provided as follows:

- a) That the Director of Education, and/or her designates, take all reasonable steps to publicly report data, to the extent it is available, on confirmed and presumed cases in DDSB schools;
- b) That the DDSB ensure families and staff have a mechanism for self-reporting for those who have access to tests;
- c) That the Board provide information on school and class closures and unusual rates of absenteeism in school communities;
- d) And should the government alter its direction on the collection of this data, the Board will revisit its position.

5.0 Appendices

Appendix A: July 10, 2023 COVID-19 Update report to Special Board meeting

Report reviewed and submitted by:



Patrick Cotter, General Counsel



Robert Cerjanec, Executive Lead, Strategic Initiatives and External Relations

**DURHAM DISTRICT SCHOOL BOARD
ADMINISTRATIVE REPORT****REPORT TO:** Durham District School Board**DATE:** July 10, 2023**SUBJECT:** COVID-19 Update**PAGE:** 1 of 3**ORIGIN:** Camille Williams-Taylor, Director of Education and Secretary to the Board
Jim Markovski, Associate Director, Equitable Education**1.0 Purpose**

The purpose of this report is to update the Board of Trustees on the current COVID-19 situation and to recommend the rescinding of a previous Board Resolution in relation to COVID-19 communication practices in advance of the 2023-2024 school year.

2.0 Ignite Learning Strategic Priority/Operational Goals

Well-being – *Create safe, welcoming, inclusive learning spaces to promote well-being for all students and staff.*

3.0 Background

On December 30, 2021, Ontario's Chief Medical Officer of Health provided updated guidance to school boards and public health units in relation to COVID-19 and the Omicron variant surge. Within this new guidance was the discontinuation of case and contact management and the reporting of positive COVID-19 test results by public health units to school boards.

On January 5, 2022, the Board of Trustees passed a resolution stating the following:

- a) The Director of Education, and/or her designates, take all reasonable steps to publicly report data, to the extent it is available, on confirmed and presumed cases in DDSB schools;*
- b) That the DDSB ensure families and staff have a mechanism for self-reporting for those who have access to tests;*
- c) That the Board provide information on school and class closures and unusual rates of absenteeism in school communities; and*
- d) Should the government alter its direction on the collection of this data, the Board will revisit its position.*

3.1 DDSB – Response to Public Health Guidance and Board Resolution

As a result of the Resolution, the DDSB continued the practice of maintaining the COVID-19 Advisory information page posted on the DDSB website. The COVID-19 Advisory page was updated to include self-reported COVID-19 positive test results and school absenteeism data due to illness.

Parents and guardians were provided with a mechanism to voluntarily report positive test results through an absence reporting tool on school messenger and by telephone.

As an operational measure, schools were also instructed to send parents/guardians a whole school communication letter when schools were made aware of self-reported COVID-19 test result by a parent or staff member.

4.0 Analysis

During the 2022-2023 school year, schools successfully transitioned to pre-pandemic operations. Masking remained optional for staff and students.

The Ontario government updated the COVID-19 School Screening Tool to include all respiratory related viruses, not just COVID-19. Staff and students were encouraged to screen daily for symptoms and to follow the guidance provided in the School Screening Tool.

The DDSB continues to work in close collaboration with the Durham Region Health Department to respond to current needs in the context of pandemic recovery. Enhanced cleaning and disinfection and ventilation measures continue to be in place.

Currently, the public health approach to COVID-19 is similar to other respiratory illnesses that we experience each year. In addition, the Government of Ontario is winding down broad access to free rapid antigen tests as of June 30, 2023. In the absence of specific guidance or recommendations from public health, there is no evidence to support the ongoing communication of self-reported COVID-19 positive test results within school communities.

5.0 Financial Implications

There are no financial implications to report.

6.0 Communication Plan

Students, parents/guardians and staff will continue to be reminded to take preventative measures to protect themselves from respiratory illnesses and ensure the health and safety of school communities. This includes staying up to date on COVID-19 vaccinations and flu shots, maintaining good hand hygiene, staying home when sick, and asking that staff and students continue to complete the Ontario School Screening Tool for return to work/school guidance when experiencing symptoms of a respiratory illness.

In addition, if absences exceed 30% of the school population, the DDSB will continue to inform the Durham Region Health Department who may provide additional direction to the school community.

7.0 Recommendation

Based on the current circumstances and public health guidelines, the Resolution passed by the Board of Trustees on January 5, 2022 has now served its purpose during a challenging time for school boards.

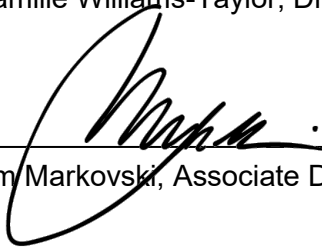
In order to prepare for the upcoming school year and provide clear guidance to school administrators, it is recommended that the Board of Trustees rescind the following Resolution that was adopted at the January 5, 2022, Special Board meeting:

- a) *That the Director of Education, and/or her designates, take all reasonable steps to publicly report data, to the extent it is available, on confirmed and presumed cases in DDSB schools;*
- b) *That the DDSB ensure families and staff have a mechanism for self-reporting for those who have access to tests;*
- c) *That the Board provide information on school and class closures and unusual rates of absenteeism in school communities; and*
- d) *Should the government alter its direction on the collection of this data, the Board will revisit its position.*

Report reviewed and submitted by:



Camille Williams-Taylor, Director of Education and Secretary to the Board



Jim Markovski, Associate Director, Equitable Education

**DURHAM DISTRICT SCHOOL BOARD
ADMINISTRATIVE REPORT**

REPORT TO: Governance and Policy Committee **DATE:** September 27, 2023

SUBJECT: Rescission of Use of Service Animals in Schools Policy **PAGE:** 1 of 3

ORIGIN: Andrea McAuley, Superintendent Inclusive Student Services
Robert Cerjanec, Executive Lead, Strategic Initiatives and External Relations
Patrick Cotter, General Counsel

1.0 Purpose

The purpose of this report is to recommend rescission of the Use of Service Animals in Schools Policy and share the revised Use of Service Animals in Schools Procedure for information.

2.0 Ignite Learning Strategic Priority/Operational Goals

Leadership – *Identify future leaders, actively develop new leaders and responsively support current leaders.*

- Ensuring all Durham District School Board (DDSB) policies, procedures and regulations are up to date, relevant, and accurately aligned to appropriate legislation, collective agreements, employment contracts and existing policies supports system leaders in operational implementation.

3.0 Background**3.1 DDSB Commitments**

The DDSB recognizes Indigenous rights are distinct. In the exercise of those rights, Indigenous staff and students shall not be subjected to actions with the aim or effect of depriving these distinct rights.

The DDSB is committed to learning and working environments that are centered around human rights and equity and are safe, welcoming, respectful, equitable, accessible, inclusive and free from discrimination.

It is important to accurately maintain current policies to support Board governance and system operations. Consistent with this objective, Inclusive Student Services has undertaken a review of policies and regulations that fall under its area of responsibility.

3.2 Use of Service Animals in Schools

Ministry of Education Policy/Procedure Memorandums (PPM) outline specific standards and legislation relating to education in Ontario with requirements for Boards to achieve the specific expectations mandated. The Ministry of Education Policy/Procedure Memorandum (PPM163) sets the expectation for Boards related to service animals.

3.3 Distinction of Service Animals, Support Animals & Visiting Animals

PPM 163 includes the following definition of a service animal: “an animal that provides support relating to a student’s disability to assist that student in meaningfully accessing education”. The PPM further states that, “Due consideration should be given to any documentation on how the service animal assists with the student’s learning need, and disability-related needs (documentation from the student’s medical professionals)”. It is to be noted that service animals are distinct from two other categories of animals for whom permission is often sought to accompany student(s) at school:

Service Animals	Support Animals	Visiting Animals
Use of a service animal or guide dog requires that both the animal and the student handler must be certified as having been successfully trained by an accredited training facility.	Use of an animal for emotional support. Important to note that these are animals who are not trained to provide specific supports.	An animal from a service or community group providing support to a group of students, or individual students, to foster inclusion but not as accommodation requirement. (e.g., St. John’s Ambulance Therapy Dogs)

It is important to note, for consideration of any animal (service, support or visiting) at school, due diligence and process related to considerations of benefit to student/s and risk to others as well as animal health (proof of vaccination and, potentially, related training) is required.

4.0 Analysis

As [Ministry of Education Policy/Procedure Memorandum \(PPM163\)](#) sets the expectation for Boards related to service animals, the need for an additional policy outlining identical requirements is not required. Additionally, as a part of the DDSB’s commitment to inclusion and accommodation, the DDSB now has the Human Rights, Anti-Discrimination, and Anti-Racism policy, as well as the Human Rights Inclusive Design, and Accommodation Procedure that sets expectations, outlines roles and responsibilities, and provides operational guidance to uphold the legal duty to accommodate under the Human Rights Code, meeting the commitments outlined in the policy.

The DDSB’s Administrative Council has approved revisions to the Use of Service Animals procedure providing improved clarity on operational direction surrounding the use of service animals in school. These updates combined with PPM163, the Human Rights, Anti-Discrimination, and Anti-Racism Policy, and the Human Rights Inclusive Design, and Accommodation Procedure have made an additional distinct and separate policy redundant and no longer required.

5.0 Financial Implications

Not applicable.

6.0 Evidence of Impact

Rescinding outdated and obsolete policies and updating procedures will bring clarity to applicable processes for system leaders and staff.

7.0 Communication Plan

Communication regarding the removal of the rescinded policy and updated procedure will be provided to system leaders as applicable to their role. The website listing of policies, procedures and regulations will be updated.

8.0 Conclusion and/or Recommendations

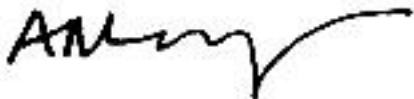
That the Governance and Policy Committee recommend to the Board of Trustees that the Use of Service Animals Policy be rescinded.

9.0 Appendices

Appendix A: Use of Service Animals Policy

Appendix B: Revised Use of Service Animals in School Procedure (for information only)

Report reviewed and submitted by:



Andrea McAuley, Superintendent Inclusive Student Services



Robert Cerjanec, Executive Lead, Strategic Initiatives and External Relations



Patrick Cotter, General Counsel

SCHOOL OPERATIONS & EQUITABLE EDUCATION**Use of Service Animals in Schools****1.0 Objective**

To ensure consideration and use of service animals in schools is aligned with the expectations of the Ontario Human Rights Code (OHRC), Accessibility for Ontarians with Disabilities Act (AODA) and Ministry of Education PPM 163.

2.0 Definitions

Accommodation means adjusting services, programs and practices to remove barriers and better respond to or address individual Human Rights Code related needs. The District has a legal duty to accommodate students' Human Rights Code related needs. This means providing accommodation that:

- most respects the dignity and individual needs of the student
- maximizes the student's integration, participation and independence.

Guide Dog means a dog trained as a guide for a blind person and having the qualifications prescribed by the regulations pursuant to the *Blind Persons' Rights Act*;

Service Animal for the purpose of this Procedure includes a therapy dog, companion animal, comfort animal and emotional support animal and includes a dog or other domesticated animal that may legally reside in an urban, residential home, that is not highly trained to perform particular tasks to assist with a student's disability-related needs, but provides emotional support (and/or companionship, calming influence) for a student with a disability-related mental health and/or psychological need and/or comfort during a difficult period.

Service Dog means a dog which has been certified after successfully completing a training program provided by an Accredited Training Organization.

3.0 Responsibilities

- 3.1 Trustees:** The Trustees are responsible for the strategic direction of the board and ensuring that policies are regularly updated to support the multi-year strategic plan. They are also responsible for ensuring the compliance of policies by the system through the annual review by the Director of Education (and designates). The Trustees set expectation that the District have policy guiding the use of service animals in schools as a foundation of compliance with PPM 163.
- 3.2 Director of Education:** The operations of the District are the responsibility of the Director of Education (and designates) and include implementing measures to ensure compliance with this policy by all staff and in the provision of professional learning and training for staff to support implementation. The Director shall ensure that the District's procedure on the Use of Service Animals in Schools is compliant with PPM 163 and aligned with this related policy.

4.0 Policy

- 4.1** The Durham District School Board is committed to the learning of all students and provides a range of differentiated placements, programs and interventions to support student success. It is the policy of the Durham District School Board (DDSB), in accordance with its obligations pursuant to the Ontario *Human Rights Code*, to provide individualized accommodation to students with disabilities to enable them to have meaningful access to education services.
- 4.2** In circumstances where a parent/guardian or adult student requests to have the student's Guide Dog, Service Dog or Service Animal accompany the student while attending school or a school-related event, each such request shall be reviewed individually by the DDSB considering the student's dignity, integration, independence and disability-related learning needs and the accommodations available to enable meaningful access to education.
- 4.3** Staff accommodation requests for use of a Service Animal shall follow same process of thorough considerations.
- 4.4** Pursuant to the *Education Act* and regulations, a school building is not a place to which the public is customarily admitted.
- 4.5** The process of accommodation shall also consider the competing human rights of other students and of staff; the impact of the Guide Dog, Service Dog or Service Animal on the learning environment; and the health and safety of all individuals who are or might be in the school, on school grounds or at a school-related event.
- 4.6** A Durham District School Board procedure will be in place to ensure the requirements of Ministry PPM 163 School Board Policies on Service Animals, based on the Ontario Human Rights Code and the Accessibility for Ontarians with Disabilities Act, are addressed: Communication Plan (e.g., process of application, informing school community of presence of any service animals at the school), Process for Requests, Health Safety and Other Concerns, Roles and Responsibilities, Training and Review of School Board Service Animal processes and related data collection (requests, decisions and types of support).

5.0 References

5.1 Policies

Consultative Process
Policy Formation and Review

5.2 Procedures

Use of Service Animals in Schools

5.3 Other Documents

Ontario Human Rights Code
Accessibility for Ontarians with Disabilities Act
Ministry of Education PPM 163 Use of Service Animals in Schools

Appendix: None

Effective Date: 2020/03/23

APPENDIX B

Procedure: Use of Service Animals in Schools

Adopted under PPM 163 and the Human Rights, Anti-Discrimination and Anti-Racism Policy

1.0 Objective

- 1.1 This procedure identifies the individualized and collaborative process to be followed when a parent/guardian or adult student requests a Guide Dog, Service Dog or Service Animal accompany the student while the student is attending school or a school-related event to accommodate the student's learning needs and/or disability related needs.
- 1.2 This procedure shall be read together with the Human Rights, Anti-Discrimination and Anti-Racism Policy (the "Human Rights Policy") and the Human Rights, Inclusive Design and Accommodation Procedure (the "Accommodation Procedure").
- 1.3 In circumstances where a parent/guardian or adult student requests to have the student's Guide Dog, Service Dog or Service Animal accompany the student while attending school or a school-related event, each such request shall be reviewed individually by the District, in accordance with the duty to accommodate to the point of undue hardship.
- 1.4 The accommodation process is a shared responsibility, and the District will cooperatively engage with the student/parent/guardian to explore accommodation options and solutions that consider the student's dignity, integration, independence and disability-related learning needs to enable meaningful access to education.

Pursuant to the Education Act and regulations, a school building is not a place to which the public is customarily admitted. Pursuant to the Education Act and Ontario Regulation 474/00 Access to School Premises, the Durham District School Board requires each school to have a process for visitors.

Any determination of whether a Guide Dog, Service Dog or Service Animal is an appropriate accommodation for a student while receiving education services is a decision of the DDSB. A regulated health professional cannot unilaterally prescribe that a Guide Dog, Service Dog or Service Animal be a specific accommodation while the student is receiving education services at school.

When an adult student or parent/guardian seeks to have their child attend school or school related events with a Guide Dog / Service Dog, both the Guide Dog / Service Dog and the Student Handler must be certified as having been successfully trained by an accredited training facility. Where the student will not be acting as the primary trained handler, the DDSB will consider the request, to the point of undue hardship.

Only in exceptional circumstances, subject to the duty to accommodate to the point of undue hardship, will the DDSB consider Service Animals, other than dogs, as an accommodation for a student and only if other reasonable methods of accommodation in the school setting have been unsuccessful in meeting the demonstrated disability-related learning needs of the student.

- 1.5 This procedure is to be interpreted and applied in accordance with the District's commitment to promoting and upholding Indigenous rights and human rights in all of its learning and working environments. This includes anti-colonial, anti-discriminatory and anti-racist approaches and actions to provide services and employment that are safe, welcoming, respectful, inclusive, equitable, accessible and free from discrimination and harassment consistent with the DDSB's Indigenous Education Policy, the Human Rights Policy, the Safe and Respectful Workplace and Harassment Prevention Policy, and related procedures. This applies to decisions made in reviewing requests for service animals, throughout the accommodation process, consultations and decision making, and in the implementation, communications and reviews of the use of a service animal in schools.

2.0 Background

Service animals have traditionally been highly trained dogs that assist individuals with various tasks of daily living (Guide Dog, Hearing and Signal Dogs, Mobility Assistance Dogs, Seizure Response Dogs).

In most circumstances, a Guide Dog will be a highly trained dog provided to support the orientation and mobility needs of a student Handler who has a diagnosis of blindness/low vision, and the use of a Guide Dog will respect the student's dignity, provide the student with greater independence, and maximize opportunities for participation and integration.

The term Service Animal is used in the *Accessibility Standards for Customer Service* made under the Accessibility for Ontarians with Disabilities Act (AODA), to describe an animal that assists an individual with a disability to be able to access goods and services available to the public. A school is not a public space and is not generally accessible to the public. The AODA does not apply to a student's use of a Service Dog / Service Animal when accessing education services in school buildings.

- a) Pursuant to the Code it is possible that a Service Animal might include different species that provide a therapeutic function (horses), emotional support, sensory function, companionship and/or comfort.
- b) The District, in collaboration with the requester, will make decision based on considerations for how the service animal supports the student's learning needs and/or disability related needs, including documentation from the student's medical professionals, the disability related needs and learning needs of the student, other accommodations available, the rights of others and needs of the school community, any training or certification of the service animal, and any special considerations that may arise if the animal is a species other than a dog.
 - (i) Such a decision will consider that animals, other than dogs, are not trained by an Accredited Training Organization and may pose a risk to the safety of students and staff and/or may be disruptive to the learning environment and/or may act as a distraction in the learning environment.

The DDSB does not generally permit training of potential guide dogs and service dogs in the school setting or during school activities.

3.0 Definitions

In this procedure,

- 3.1 Key human rights and equity terms used in this procedure (for example, disability and duty to accommodate) are defined in Appendix A (Glossary of Terms) of the Human Rights Policy.
- 3.2 **Accredited training organization** is a guide dog or service dog trainer that is accredited by:
- International Guide Dog Federation (“IGDF”): which develops and ensures compliance with the standards by which Guide Dogs for the blind/low vision are trained by its member organizations; or
 - Assistance Dogs International (“ADI”): which develops and ensures compliance with the standards by which Guide, Hearing and Service Dogs are trained by its member organizations;
- or
- A Guide Dog or Service Dog trainer that attests to compliance with the Meghan Search and Rescue Standard in Support of Accessibility: Persons with a Disability Teamed with Service Dogs standard for training (MSAR).
- 3.3 **Adult student** shall be defined to mean a student who is 18 years of age or older or 16 or 17 years of age and has removed him/her/themselves from the care and control of their custodial parent/guardian
- 3.4 **Guide Dog** means a dog trained as a guide for a blind individual and having the qualifications prescribed by the regulations pursuant to the Blind Persons' Rights Act;
- 3.5 **Handler** refers to the individual trained by an Accredited Training Organization who is managing the Guide Dog/Service Dog and in most cases will be the student for whom the Guide Dog / Service Dog is provided;
- 3.6 **Parent/Guardian** shall be defined to mean a custodial parent of the student or a guardian pursuant to the Education Act;
- 3.8 **Service Dog** means a dog which has been certified after successfully completing a training program provided by an Accredited Training Organization.

4.0 Procedure

ROLES AND RESPONSIBILITIES

4.1 Principals

School principals are responsible for the management of the school premises, the staff providing educational programs and the safety of all students.

- a) School principals, before admitting a Guide Dog / Service Dog into the school or on school related activities with the student Handler, shall require a parent/guardian/adult student to submit a completed accommodation request form, included in Appendix A of the Procedure.
- b) Before admitting a Service Animal, the school principal shall require the parent/guardian/adult student to submit a completed accommodation request form, included in Appendix B of the Procedure.
- c) On receipt of an application for a Guide Dog / Service Dog or Service Animal, the school principal shall review the application for completeness and may request any additional information or clarification necessary to assess the request for accommodation.
- d) The school principal will ensure an accommodation plan that addresses the competing rights of others;

The school principal shall be responsible for communication with the parent/guardian/adult student with respect to the accommodation process, any additional information required, the decision, and where approved the implementation and management of the accommodation.

Where a student supported by a Guide Dog / Service Dog / Service Animal, whose parent/guardian is the Handler, seeks only to attend a school excursion with the Guide Dog / Service Dog / Service Animal, which is at a location where the public is customarily admitted, efforts will be made to facilitate the student's participation with the Guide Dog / Service Dog / Service Animal and parent as the Handler.

Inquiries may need to be made regarding potential competing human rights and transportation arrangements.

4.2 Parents/Guardians/Adult Students

Parents/Guardians or Adult Students will provide all necessary documentation to support the accommodation process. The parent/guardian or adult student shall be responsible for:

- a) submission of Appendix A (Guide Dog/Service Dog) or Appendix B (Service Animal);
- b) all costs related to the dog, food, grooming, harness, crate and/or mat and veterinary care;
- c) obtaining, training and maintaining the Guide Dog / Service Dog training to provide the accommodation in a safe manner;
- d) providing confirmation of municipal license for the dog (to be updated annually),

- e) providing confirmation of certificates of training not older than 6 months from an Accredited Training Organization attesting that the dog and student Handler have successfully completed training and may safely engage in a public setting without creating a risk of safety within a school setting;
- f) medical information from a registered pediatrician, psychologist, psychiatrist (or other regulated health professional as determined by the School Board) with a recommendation for the use of a Guide Dog / Service Dog to meet the student's disability related needs;
- g) a description of the services provided by the Guide Dog / Service Dog to the student, and how those services will support the student's disability-related needs and assist the student in achieving their learning goals and/or goals of daily living while at school;
- h) a certificate not greater than three (3) months old from a veterinarian qualified to practice veterinary medicine in the Province of Ontario attesting that, the dog is an adult; identifying the age and breed; does not have a disease or illness that might pose a risk to humans; has received all required vaccinations; and is in good health to assist the student (to be updated annually);
- i) general liability insurance providing coverage in an amount specified by the Board¹ in the event of an injury or death as a result of the Guide Dog / Service Dog's attendance on school property or on a school-related activity (to be updated annually)².

4.3 Students

Students will be expected to act as the Guide Dog / Service Dog's primary Handler. The student Handler must:

- a) demonstrate the ability to control the Guide Dog / Service Dog in accordance with the training received;
- b) ensure that the Guide Dog / Service Dog is always wearing a vest and leash or harness when the dog is not in its crate.
- c) ensure that the Guide Dog / Service Dog's biological needs are addressed;
- d) transition and maintain at all times the Guide Dog / Service Dog on a leash, harness, mat and/or crate;

¹ Note usually \$2 million in general liability insurance coverage is requested. This requirement might need to be waived to prevent potential financial barriers for a family.

² Note lack of requested insurance coverage because of financial barriers should not impede the provision of accommodation.

4.4 Guide Dog / Service Dog

The Guide Dog / Service Dog:

- a) shall be a highly trained and certified by Accredited Training Organization;
 - (i) will have evidence of training or re-certification confirming compliance with training requirements within the last 6 months be required;
- b) must be groomed and clean;
- c) must at all times while on school property be responsive to commands and demonstrate that it can perform the necessary tasks or accommodation;
- d) must not engage in behaviour that puts at risk the safety of others, including other animals, or that creates disruption or distraction in the learning environment;
 - (i) such behaviour includes, but is not limited to, growling, nipping, barking, attention seeking, eating;
 - (ii) any such behaviour, or similar, may require a review of the accommodation and the potential need to look at alternative options that meet the student's needs
- e) must have control of its biological functions so as not to soil the inside of buildings, or require feeding during the school day;

5.0 CONSIDERATIONS INCLUDING EMPLOYEE ACCOMMODATION

- 5.1 The District has a legal duty to accommodate an employee's disability related needs to the point of undue hardship.
- 5.2 As part of the planning process for the introduction of a service animal to the school for an employee, the principal will, as soon as possible, inform the Manager of Abilities Management & Well-Being. The Manager of Abilities Management & Well-Being will consult with Superintendent of People & Culture and the Superintendent of Inclusive Student Services that a request for a service animal by an employee has been made. This notice will serve to initiate a consultation process through Human Resource Services to explore accommodation options, and to consider the impact on the rights of other individuals. Potential competing rights will be addressed in accordance with the Human Rights, Anti-Discrimination and Anti-Racism Policy and the Human Rights Inclusive Design and Accommodation Procedure.

6.0 PROCEDURES FOR REQUESTING ACCOMMODATION FOR A SERVICE ANIMAL

- 6.1 When a service animal request is received, the school will assess each request on a case-by-case basis to determine the appropriate admittance and implementation method for service animals, and whether the service animal can be accommodated to the point of undue hardship. All circumstances of each particular request, including the individual needs of the individual being assisted by the service animal and the needs of other students and staff, will be considered. Where necessary, in the implementation and accommodation process, where the rights and needs of one individual may conflict with another individual's rights, we will consider and reconcile potential competing rights.

- 6.2 The school will engage in its procedural duty to accommodate. The individual's service animal request will be reviewed by the principal in consultation with the individual making the request, the Superintendent of Education for Inclusive Student Services, and the Special Education System Lead and may also involve the Human Rights and Equity Advisor and General Counsel.
- 6.3 Every effort will be made to review the documentation and schedule a meeting in a reasonable timeframe.
- 6.4 Whenever possible, a individual with a service animal will inform the principal of the relevant school prior to entering the school that the individual or the student and their service animal wishes to be accommodated by the school, and usually, that the individual or the student and their service animal are trained to work together from a recognized training center/program and have been certified as a low risk to injure the individual or others. The individual will initiate the process by making a request in writing to the school using Appendix A: Application Request for Guide Dog/Service Dog. The applicant, or Principal on their behalf, can consult appropriate system staff (Inclusive Student Services) to obtain further information on the accommodation process.
- 6.5 Each request for a Guide Dog / Service Dog or Service Animal will be addressed on an individual basis giving consideration to:
- a) the individual learning strengths and needs of the student, the student's IEP goals, safety plan, behaviour plan and/or student's medical plan of care (if any);
 - b) supporting documents such as psychological assessments, occupational or physical therapy assessments, functional behaviour assessments etc.
 - c) evidence of how the Guide Dog / Service Dog or Service Animal's attendance at school might support demonstrated disability-related learning needs and/or acts of daily living necessary while at school;
 - d) assessment information provided by a regulated health professional with expertise regarding the student's disability-related needs supporting the request for a Guide Dog / Service Dog or Service Animal inclusive of how the accommodation will support or enhance the student's learning and disability related needs in a school environment
 - e) the training and certification of the Guide Dog / Service Dog and student as Handler;
 - f) whether one or more alternative accommodations can meet the needs of the student;
 - g) whether the student's attendance with a Guide Dog / Service Dog or Service Animal might require an increase in the level of staff support provided to the student;
 - h) whether training will be required for staff and/or the student;
 - i) the impact of the accommodation on the rights and needs of other students and staff in the learning environment
 - j) any potential competing human rights of students, staff, and community members using the school pursuant to a permit;
 - k) recommendations for accommodation plans to reconcile competing rights.

- 6.6 The process of accommodation, including inquiries regarding competing rights and notice to the school community, shall respect the student's right to privacy and protect confidentiality regarding their disability and specific learning needs and/or needs of daily living. **Appendix C: Checklist for Principals – Consideration & Implementation of a Service Animal** and **Appendix D: Case Conference Guide** are provided to support schools' teams in navigating applications and implementation.
- 6.7 Where the student is not the primary Handler, Board staff must be trained as the Handler(s) and accompany the student and dog at all times. As a result, such requests will be individually considered, in accordance with the duty to accommodate to the point of undue hardship and the factors outlined in PPM 163 and in the DDSB Human Rights Policy and the Human Rights Inclusive Design and Accommodation Procedure..
- 6.8 For requests for a service animal other than a dog, the parent/guardian must complete the Request for Service Animal form included in **Appendix B** of this procedure. These requests will be individually considered, in accordance with the process noted above, the duty to accommodate short of undue hardship and the factors outlined in PPM 163 and in the "Human Rights and Accommodation" section.
- 6.9 The determination with respect to the application for a Guide Dog / Service Dog / Service Animal shall be communicated to the parent/adult student in writing in accordance with Appendix E: Sample Letters – see either Approving the Guide Dog/Service Dog/Service Animal or Denying Request for the Guide Dog/Service Dog/Service Animal.
- 6.10 As part of the accommodation process, the DDSB may request additional information and/or documentation to ensure the animal's presence in school does not present an increased risk of harm to the animal, the individual, the student, and/or other members of the school community.
- 6.11 Requests for a service animal in the school will be considered on a case-by-case basis. In some instances, requests for additional information and/or documentation may include details such as the cleanliness and size of the support animal, established routines for handling the animal in the event that the animal is separated from its handler, and/or evidence of training to mitigate the risk of harm to the animal, the individual who handles the animal, or others while the animal is at school. Please see Appendix C for expectations regarding the responsibilities of the individual who requires the use of the support animal to command of the animal at school.
- 6.12 The principal will inform and consult with the Superintendent of Inclusive Student Services and the System Lead - Special Education as part of the accommodation process, to discuss information that may be required to support the accommodation request, accommodation options and implementation considerations.
- 6.13 A meeting with the school (and Board which may include the Instructional Facilitator and/or Special Education Officer) team supporting the student, the parent/guardian/adult student and student (as appropriate), the health practitioner recommending the Guide Dog / Service Dog or Service Animal for the student, the trainer of the Guide Dog / Service Dog and of the Handler, and any other individuals who may contribute to the accommodation process may be scheduled to review the request for accommodation.

At the meeting, the principal will advise the individual making the service animal request that all costs related to the provision of the service animal are the financial responsibility of the individual.

- 6.14 The case conference/accommodation consultation (**Appendix D: Case Conference Guide**) will include a discussion of other information to help determine accommodation options and implementation considerations, identify and address any potential risks, support successful implementation and document decision making. This includes considering potential Human Rights Code related rights and needs of other staff and students and health and safety issues (e.g., severe allergies, staff or students with asthma, fear of animals, cultural or religious needs, etc.), the potential impact of the use of a service animal on the school community, the handling routines and responsibilities, guidelines for staff and students, other student issues, transportation issues, the role of the parent/guardian when the service animal relates to a student, and communication with the parent/guardian on an ongoing basis, the cost of accommodating the service animal, and the resources available to the school.

7.0 IMPLEMENTING THE ACCOMMODATION

- 7.1 Where the request is approved, the school principal in consultation with the student's educational team, in consultation with the Inclusive Student Services team, will complete action items including the following planning prior to the initialization of the support within a student's program (see Administrators checklist):

- make changes to the student's IEP goals and/or student's medical plan of care;
- may provide for the accommodation on an interim trial basis, in which case the indicators of success or lack of success for this form of accommodation will be identified before the trial period begins;
- organize an orientation session for school staff, students and the student Handler;
- develop a timetable identifying a bio-break, water break, location/process to be followed during instructional and non-instructional times;
- assessment may be required by the School Board's Health and Safety team regarding potential health and safety issues applicable to different areas/activities in the school;
- develop emergency procedures, to include a fire exit plan, lockdown plan, evacuation plan;
- Protecting confidentiality and respecting privacy, notice to the community via a letter to parents; posting on the school's website / social media; presentation by the trainer of the Guide Dog / Service Dog during a school council meeting or association supporting the use of the Service Animal; signage on the school's front door, gymnasium and library doors; communication to potential occasional staff accepting a position where the Guide Dog / Service Dog or Service Animal may be providing service to the student;
- student assembly for introduction and orientation regarding the Guide Dog / Service Dog or Service Animal;

- 7.2 Arrangements for transportation of the Guide Dog / Service Dog or Service Animal to and from school, if necessary (See Section 8.0 Procedures for the Transportation of Service Animals on DSTS Bus Routes)

- (i) If the Guide Dog / Service Dog or Service Animal will be accompanying the student on a school vehicle, inquiries must be made regarding potential competing rights, the transportation plan must specify where the Guide Dog / Service Dog or Service Animal and student will be located; the vehicle shall have a sticker / sign identifying the presence of a Guide Dog / Service Dog or Service Animal is on board;

- (ii) Documentation about the Guide Dog / Service Dog or Service Animal will be included with the route information so that new or substitute bus drivers are aware of the Guide Dog / Service Dog's or Service Animal's presence.
- (iii) Specialized transportation shall not be provided solely for the purpose enabling the Guide Dog / Service Dog or Service Animal to travel to and from school with the student;

- 7.3 As the School Community Council (the "SCC") advises the principal on matters pertaining to the school community, the principal will provide information to the council and other interested community members. The principal will invite the individual making the service animal request to the SCC meeting. Notification will also be made to the school community.
- 7.4 All school staff members, both teaching and non-teaching, will be informed early in the process of the request to have a service animal in the school. Their input will help inform potential accommodation and implementation considerations. Arrangements will be made by the principal to notify all relevant employee services that a service animal will be in the school.
- 7.5 Standardized DDSB signs, obtained through the Operations Department must be placed on the entrance doors of the school to inform visitors of the service animal's presence.
- 7.6 When an accommodation request for the service animal is approved, careful consideration of all of the relevant factors will assist in the transition of the animal into the school environment. Attention to consistency, routines, confidentiality and privacy within communications, staff in-service, school assemblies, and community notification are required.

An appropriate fire and emergency exit plan must be developed. Personnel from the local fire/police departments may be consulted when developing these plans.

- 7.7 In the event that the request for a service animal is not approved, or if a service animal is excluded from the premises, the school will explore alternative options to support accommodation needs in another way.
- 7.8 The DDSB will provide training to staff on how to interact with individuals with accommodation needs who use a guide dog or other service animal.
- 8.0 **PROCEDURES FOR THE TRANSPORTATION OF SERVICE ANIMALS ON DSTS BUS ROUTES**
- 8.1 Under the AODA and the Human Rights Code, service animals are permitted to ride the bus with their handler, subject to the school's duty to accommodate to the point of undue hardship.
- 8.2 Once a principal has determined that a service animal will be working with an individual in the school and transportation is required, the principal will contact Durham Student Transportation Services.
- 8.3 The bus operator will ensure that there is documentation about the service animal with the relevant route information.
- 8.4 Basic training for the driver and other students on the bus will be provided by the DDSB. This training may include one or more training runs.

- 8.5 The service animal should not sit or lie in the aisle of the bus. Wherever possible the service animal should be in the seat compartment and/or floor, away from the aisle, to prevent the animal from becoming a safety hazard for other bus passengers.
- 8.6 The Durham Student Transportation Services will ensure that any students from other schools or school boards travelling with the service animal are advised of the presence of the service animal. (see Appendix E for a sample letter)
- 8.7 Regulation 493/17, of Ontario's Health Protection and Promotion Act, allows Guide Dogs and Service Animals in areas where food is served, sold and offered for sale. Steps should be taken to ensure that Guide Dogs and Service Animals in school cafeterias, or areas where students are consuming food, are not disruptive and do not eat student food.
- 8.8 No animals are allowed in areas where food is prepared, processed, or handled such as the kitchen of the school cafeteria or the hospitality classroom. Where students are engaged in learning in these spaces, alternative arrangements for the Guide Dog or Service Animal are required and alternative accommodation for the individual may be required.

9.0 VISITORS/VOLUNTEERS WHO USE SERVICE ANIMALS IN SCHOOLS

- 9.1 When an individual who uses a service animal wishes to visit or volunteer in a classroom/school, school personnel will follow the Board's policy on volunteers and the DDSB Accessibility Guidelines. Parent(s)/guardian(s) of the students and staff will be notified beforehand and provided with information relating to service animal etiquette. Should a principal be notified about issues related to Human Rights Code related needs of staff or students (e.g., allergies, cultural/religious needs, fear, etc.), the DDSB will take steps to address potential competing rights and needs.

10.0 VISITING SUPPORT ANIMALS

- 10.1 If a principal or supervisor agrees that a student / group of students or employee would benefit from time spent with a visiting service animal during occasional pre-arranged visits with its Handler, then the principal / supervisor may approve these visits as long as:
- (i) there is written consent from the students' parents;
 - (ii) the animal's handler is always in control of the animal, and is completely responsible and liable for the animal at all times;
 - (iii) the school / workplace community has been notified in advance and been given opportunity to provide input on Human Rights Code related needs (e.g., allergies, fears and religious/cultural needs, etc.);
 - (iv) there is a plan of care for the animal;
 - (v) there is a municipal license (if applicable), veterinary certificate, and proof of owner's liability insurance for the animal.

11.0 CONTINUOUS ASSESSMENT

- 11.1 A review of the effectiveness of the Guide Dog, Service Dog or Service Animal in supporting the student's learning goals shall be undertaken in accordance with the Human Rights Inclusive Design and Accommodation Procedure and as part of each review of the student's IEP, in the event of a Violent Incident Report, and as otherwise deemed necessary by the Principal.

11.2 Approval may be reconsidered at any time by the principal if:

- a) there are any related concerns for the health and safety of students, staff or the Guide Dog / Service Dog / Service Animal that can't be mitigated;
- b) there is behaviour that is disruptive or aggressive, including making noise, failing to follow commands, growling or nipping. In the event that this behaviour occurs, the Handler will be required to remove the Guide Dog / Service Dog / Service Animal from the classroom immediately and the student's parent/guardian will be called to pick up the Guide Dog / Service Dog / Service Animal from the school. Alternative options for accommodation will be discussed.
- c) there has been a change to the student's circumstances or disability-related needs, which had supported the original approval or a change to the needs of students/staff such that there is a new potential competing right;
- d) the team supporting the student may recommend that another accommodation or support/resource may better meet the needs of the student and should discuss with the Principal for further consultation with student/family.

12.0 RECORDS

- 12.1 A copy of the application and confirmation of approval, as well as any other relevant documents supporting the accommodation shall be retained in the student's Ontario Student Record.
- 12.2 The DDSB shall be required to collect, use and disclose the personal information of the student in order to fulfill the accommodation process. Notice of the collection, use and disclosure must be provided to the parent/guardian/adult student. Efforts should be made to limit the personal information to only that which is necessary.
- 12.3 The DDSB is required pursuant to PPM 163 School Board Policies on Service Animals to collect information regarding the implementation of the policy and procedure regarding Guide Dogs and Service Animals, including.
 - a) Total number of requests for students to be accompanied by Guide Dog / Service Dogs / Service Animals;
 - (i) Whether requests are for elementary or secondary school students;
 - (ii) The student's grade;
 - (iii) Whether the student is the Handler;
 - b) The number of requests approved and denied;
 - (i) If denied, the rationale for the decision, including a description of other supports and/or services provided to the student to support their access to the Ontario Curriculum;
 - (ii) Species of Service Animals requested and approved; and
 - (iii) Types of needs being supported: emotional, social, psychological, physical.

13.0 SOURCES

Human Rights Code, RSO 1990, c.H.19

Education Act, RSO 1990, c.E2, s. 170(1), s.265(1); O. Reg. 298, s.11

PPM 163 School Board Policies on Service Animals

J.F. v. Waterloo Catholic District School Board, 2017 HRTO 1121 (CanLII) Accessibility for Ontarians with Disabilities Act, 2005, SO 2005, c.11 Blind Persons' Rights Act, RSO 1990, c.B7,

Dog Owners' Liability Act, RSO 1990, c.D16

Health Protection and Promotion Act, RSO 1990, c.H7ext

14.0 Reference Documents

14.1 Policies

Human Rights, Anti-Discrimination and Anti-Racism Policy

14.2 Procedures

Human Rights Inclusive Design and Accommodation Procedure

Appendix:

Appendix A: Application Request for Guide Dog/Service Dog

Appendix B: Application Request for Service Animal

Appendix C: Checklist for Principals – Consideration & Implementation of a Service Animal

Appendix D: Case Conference Guide

Appendix E: Sample Letters

Sample Letter to Parents/Guardians in the School Community Regarding Admittance of a Service Animal

Sample Letter to Parents/Guardians of Students in the Class(es)

Sample Letter to Parents/Guardians of Students on the School Bus/Sharing Transportation

Sample Letter Approving the Guide Dog/Service Dog/Service Animal

Sample Letter Denying the Guide Dog/Service Dog/Service Animal

Appendix F: Tips for Administrators

Appendix G: Sample Agencies Approved by the Ontario Government to Provide Guide and Service Animal Training

Effective Date

2017-06-22

Amended

2019-12-16

2020-03-09

2023-09-19

**DURHAM DISTRICT SCHOOL BOARD
ADMINISTRATIVE REPORT****REPORT TO:** Governance and Policy Committee**DATE:** September 27, 2023**SUBJECT:** Amendments to Privacy Policy and Rescission
of Privacy Regulation**PAGE:** 1 of 4**ORIGIN:** Patrick Cotter, General Counsel
Phanny Im, Legal Counsel**1.0 Purpose**

- 1.1 The purpose of this report is to bring forward proposed amendments to the *Privacy Policy*, and to rescind the *Privacy Regulation*, with any relevant content from the *Privacy Regulation* moving into the *Privacy Policy*, as appropriate, for the Governance and Policy Committee's consideration.

The amendments reflect changes to applicable legislation and best practices. The *Privacy Procedure* and *Privacy Breach Protocol (Procedure)* (the "Privacy Procedures") were simultaneously revised for the same purposes and were approved by Administrative Council on September 19, 2023. The revised Privacy Procedures are being made available to the Committee for information.

2.0 Ignite Learning Strategic Priority/Operational Goals

Success – *Set high expectations and provide support to ensure all staff and students reach their potential every year.*

Well-being – *Create safe, welcoming, inclusive learning spaces to promote well-being for all students and staff.*

Leadership – *Identify future leaders, actively develop new leaders and responsively support current leaders.*

Equity – *Promote a sense of belonging and increase equitable outcomes for all by identifying and addressing barriers to success and engagement.*

Engagement – *Engage students, parents and community members to improve student outcomes and build public confidence.*

Innovation – *Re-imagine learning and teaching spaces through digital technologies and innovative resources.*

3.0 Background

- 3.1 The *Privacy Policy*, *Privacy Regulation* and *Privacy Procedures* came into effect in 2012. These proposed amendments are the first amendments proposed to these documents since they came into effect.

4.0 **Analysis**

4.1 ***Privacy Policy***

A summary of the proposed amendments to the Privacy Policy is as follows:

- a. Addition of 3-pronged commitment: protection of privacy, public right to access, and legal compliance (ss. 1.2).
- b. Addition of scope: applies to DDSB employees, service providers, volunteers, trustees, and other individuals acting on behalf of the DDSB, and applies to all information in the custody or under the control of DDSB (s. 3).
- c. Addition of applicable definitions (s. 4).
- d. Incorporation of the 10 guiding privacy principles outlined in the Privacy Regulation (s. 5).
- e. Addition of a more express delegation of authority from the Board of Trustees, acting in its role as head under MFIPPA, to the Director of Education (ss. 5.1.1).
- f. Deletion of references to personal health information throughout, which is already included within the definition of personal information.
- g. Addition of consequences for non-compliance, and process for exemptions to the policy (s. 6).
- h. Updates to the reference documents, including the addition of the DDSB Human Rights and Indigenous Education policies (s. 8).

4.2 ***Privacy Procedure***

A summary of the amendments made to the Privacy Procedure by Administrative Council is as follows:

- a. Addition of public right to access to objectives (ss. 1.1.2).
- b. Addition of scope to reflect proposed policy amendment (s. 2).
- c. Expansion of definitions section (s. 3).
- d. Reiteration of the procedure objective that privacy legislation may be subject to modification in certain cases by prevailing laws, such as the Ontario Human Rights Code and Charter of Rights and Freedoms (s. 4).
- e. Reference to the DDSB Human Rights Inclusive Design and Accommodation Procedure regarding requests for accommodation with respect to the OSR process and parental consent, such as accommodations for gender identity confidentiality (ss. 4.2, ss. 7.3.7 and ss. 10.4).
- f. Revisions to descriptions of the roles to reflect current practice (s. 5 and throughout procedure).

- g. Addition of other disclosure circumstances, including compassionate circumstances (ss. 8.2).
- h. Clarification/elaboration of certain disclosure circumstances, including Children's Aid Society, Ministry of Education, and Government Eligibility Review Officers (ss. 11.4).
- i. Addition of authority to impose conditions on media on school property (ss. 11.5.5).
- j. Addition of section on privacy in the networked classroom and the use of online educational services, with reference to the Technology Approval Process (s. 12).
- k. Revision to the security and handling section to reflect the proposed information and classification handling procedure and best practices (s. 15).
- l. Deletion of provision allowing destruction of personal information before 1 year upon agreement of both parties (s. 16).
- m. Revisions for clarity throughout.
- n. Amendments to the appendices to ensure legislative compliance, including the addition of contact information.

4.3 Privacy Breach Protocol

A summary of the amendments made to the Privacy Breach Protocol by Administrative Council is as follows:

- a. Revision to the definitions of PI and PHI to provide more detail.
- b. Revisions to 5-step protocol to limit the assumption of a privacy breach at the initiation of the response process (s. 3).
- c. Amendments to the timing of the Privacy Breach report to the last step in the protocol, and to simplify the Privacy Breach Report (ss. 3.5.2).
- d. Deletion of the vendor duty section, as the Board cannot govern a vendor under this procedure (s. 4.5).
- e. Confirmation of the Privacy Officer role, inclusion of the Associate Director of Corporate Services role (e.g., for cybersecurity breaches and insurance reporting), and removal of the role of Superintendent of Education / Employee relations to reflect current practice (s. 5).
- f. Inclusion of coordination with applicable staff when reporting breaches to the IPC (such as breaches by regulated health professionals).
- g. Revisions for clarity throughout.
- h. Enclosure of a simplified Privacy Breach Report form.

5.0 Communication Plan

- 5.1 The revised policy and procedures will be shared with all DDSB staff and posted on the Board's website once the Board of Trustees has had the opportunity to consider the proposed changes to the policy and to rescind the regulation.

6.0 Conclusion and/or Recommendations

That the Governance and Policy Committee recommend to the Board of Trustees that the Privacy Regulation be rescinded and the Policy be revised.

7.0 Appendices

Appendix A – Privacy Policy
Appendix B – Draft Revised Privacy Policy (tracked changes)
Appendix C – Revised Privacy Procedure (for information only)
Appendix D – Revised Privacy Breach Protocol (for information only)
Appendix E – Privacy Regulation

Report reviewed and submitted by:



Patrick Cotter, General Counsel



Phanny Im, Legal Counsel

PERSONNEL

Privacy

In the course of meeting its statutory duties and responsibilities, the Durham District School Board collects, uses, retains and discloses personal information as it pertains to student education and personnel employment.

The Board will comply with all applicable provisions in the *Education Act*, the *Municipal Freedom of Information and Protection of Privacy Act*, the *Personal Health Information Protection Act* and any other applicable guidelines in ensuring the protection of an individual's privacy.

The Director of Education or designate is authorized to provide the administrative procedures necessary to implement this policy.

Appendix:

None

Effective Date

2012-02-21

Amended/Reviewed



POLICY

PERSONNEL



POLIC

PERSONNEL

Privacy

1.0 Rationale

1.1 In the course of meeting its statutory duties and responsibilities, the Durham District School Board (the “DDSB”) collects, uses, retains and discloses personal information as it pertains to student education, employees, and personnel employment. other individuals acting on behalf of the DDSB.

1.2 ~~The Board will comply~~ In respect of this personal information, the DDSB is committed to:

1.2.1 Protecting the privacy of individuals and the confidentiality of their personal information;

1.2.2 Recognizing and supporting the public’s right to access to information in the custody and control of the DDSB; and,

1.2.3 ~~Complying with all its obligations under~~ applicable privacy law and other statutes with privacy provisions in, including but not limited to the Education Act, R.S.O. 1990, c. E.2 and its regulations, as amended (the “Education Act”), the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56 and its regulations, as amended (“MFIPPA”), the Personal Health Information Protection Act and any other applicable guidelines in ensuring the, 2004, S.O. 2004, c. 3 and its regulations, as amended (“PHIPA”), and the Anti-Racism Act, 2017, S.O. 2017, c. 15 and its regulations, as amended (the “Anti-Racism Act”).

1.3 The DDSB meets this commitment through this Policy and supporting procedures and practices.

2.0 Policy Objective

2.1 To establish the framework for the DDSB’s compliance with all applicable provisions in the Education Act, MFIPPA, PHIPA, the Anti-Racism Act, and other application legislation.

2.2 To structure the framework around the Fair Information Principles of the Canadian Standards Association’s Model Code for the Protection of Personal Information. The CSA Model Code is recognized as a national standard for privacy protection ~~of~~ and is used across Canada as the basis for privacy legislation.

2.3 This procedure is to be interpreted and applied in accordance with the DDSB’s commitment to

promoting and upholding Indigenous rights and human rights in all of its learning and working environments. This includes anti-colonial, anti-discriminatory and anti-racist approaches and actions to provide services and employment that are safe, welcoming, respectful, inclusive, equitable, accessible and free from discrimination and harassment consistent with the DDSB's Human Rights, Anti-Discrimination and Anti-Racism Policy, the Indigenous Education Policy, the Safe and Respectful Workplace and Harassment Prevention Policy.

3.0 Scope

3.1 This Policy applies to DDSB employees, service providers, volunteers, trustees, and other individuals acting on behalf of the DDSB.

3.2 This Policy applies to all information in the Custody or under the Control of DDSB, including but not limited to the Personal Information of DDSB students, parents, and staff.

4.0 Definitions

In this Policy and supporting procedures,

4.1 “Collect” means to gather, acquire, receive, or obtain the information by any means from any source, and “Collection” and “Collected” has a corresponding meaning.

4.2 “Control” means the power or authority to make a decision about the creation, use or disclosure of a record.

4.3 “Custody” means the keeping, care, watch, preservation or security of a record for a legitimate business purpose. While physical possession of a record may not always be necessary to establish custody, physical possession may be an individual's privacy element of the evidence of custody.

4.4 “Disclose” means to make the information available or to release it to another person, but does not include to use the information, and “Disclosure” has a corresponding meaning.

4.5 “Personal Information” or “PI” means recorded information about an identifiable individual. As defined by MFIPPA, this may include, but is not limited to:

- Information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual, Information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;
- Any identifying number, symbol or other particular assigned to the individual;
- The address, telephone number, fingerprints or blood type of the individual;
- The personal opinions or views of the individual except if they relate to another individual;
- Correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence;
- The views or opinions of another individual about the individual, and,

- The individual's name if it appears with other PI relating to the individual or where the disclosure of the name would reveal other personal information about the individual.

4.6 "Privacy" means the right or interest of an individual to control collection, use and disclosure of their Personal Information. Privacy is a legislated right and school boards are required to comply with applicable privacy laws.

4.6 "Use" means to view, handle or otherwise deal with the information, but does not include to disclose the information, and "Use", as a noun, has a corresponding meaning.

5.0 Guiding Principles

5.1 Accountability

The principle of accountability means that an organization is responsible for PI under its Custody or Control and shall designate an individual or individuals who are accountable for the organization's compliance with privacy principles.

5.1.1 The Director of Education ~~or designate~~ is ultimately accountable for compliance with privacy legislation and holds primary responsibility for the implementation of and compliance with this Policy. Pursuant to ss. 49(1) of MFIPPA, the Board of Trustees acting in its role as head of the institution under MFIPPA, delegates its powers and duties under MFIPPA to the Director of Education, including but not limited to its powers under s.49 of MFIPPA to further sub-delegate any such powers or duties in writing to another officer or officers of the Board.

5.1.2 The Director of Education is authorized to provide the administrative procedures necessary to implement this ~~policy~~Policy.

5.1.3 The DDSB is and remains responsible for the protection of PI that is Collected, Used, Disclosed, and retained by individuals who are permitted to handle PI on the DDSB's behalf. The DDSB will use contractual or other means to ensure that a comparable level of protection is applied when PI is handled by Service Providers.

5.2 Identifying Purpose(s)

Personal information is Collected for a purpose identified by the DDSB, and individuals will be notified of the purposes and any other information required by law, at or before the time personal information is collected unless otherwise permitted by law.

5.3 Knowledge and Consent

The knowledge and, in some cases, the consent of an individual is required for the Collection, Use, Retention and Disclosure of personal information, except where otherwise permitted by law.

5.4 Limiting Collection

The Collection of PI shall be limited to that which is necessary for its purposes identified by the DDSB, in accordance with DDSB statutory duties and responsibilities. PI will be collected by lawful means.

5.5 Limiting Use, Retention and Disclosure

PI will not be Used, Retained, or Disclosed for purposes other than those for which it was collected, except with the consent of the individual or as authorized or required by law. PI will be retained in accordance with the specific purpose of the original consent.

5.6 Accuracy

The DDSB shall take reasonable steps to ensure that personal information is accurate, complete, and up to date in order to fulfill the specified purposes for its collection, use, disclosure, and retention. Employees shall keep the DDSB notified of changes to Personal Information.

5.7 Safeguards

Personal information will be secured and protected from unauthorized access, Use, Disclosure, and inadvertent loss or destruction by adhering to safeguards appropriate to the sensitivity of the information.

5.8 Openness and Transparency

The Director of Education or designate will make available to the public specific information about its policies and procedures relating to the management of Personal Information.

5.9 Access and Correction

Procedures adopted under this Policy shall allow an individual to access their Personal Information and give them access to that information in accordance with privacy legislation, subject to any mandatory or discretionary exceptions.

An individual has the right to challenge the accuracy and completeness of the information and request that it be amended as appropriate or to have a letter/statement of disagreement retained on file.

Any individual to whom the Access of their Personal Information has been granted has the right to request that any person/body who has received the Personal Information in the year preceding the correction/statement be notified of the correction/statement.

Upon request, an individual will be advised of any third-party service provider requests for his/her personal information in accordance with privacy legislation.

5.10 Compliance

Procedures adopted under this Policy shall provide for the ability to address or challenge compliance with this Policy to the Director of Education or designate

6.0 Compliance and Exemptions

6.1 Compliance with this Policy and supporting procedures in its entirety is mandatory unless an exception to a specific section is approved by the Privacy Officer, Director of Education, or delegate in writing.

6.2 Failure to comply with the requirements of this Policy and supporting procedures, without a written exception, may result in disciplinary action up to and including termination of employment or termination of contract without notice or compensation.

6.3 At the first reasonable opportunity upon identifying or becoming aware of a breach of this Policy, individuals governed by this Policy must follow the notice requirements and other protocols stipulated in procedures under this Policy.

7.0 Policy Evaluation

7.1 This Policy may be reviewed as may be deemed necessary or appropriate, but it shall be reviewed at least every 5 years.

8.0 Reference Documents

8.1 Policies

Human Rights, Anti-Discrimination and Anti-Racism Policy
Indigenous Education Policy
Safe and Respectful Workplace and Harassment Prevention Policy.

8.2 Supporting Procedures

Privacy (Personnel)
Privacy Breach Protocol
Acceptable and Safe Use Procedure for Computing Technology Safety
Electronic Monitoring
Guidelines for E-Mail
Staff Mobile Phones
Video Surveillance System
Technology Approval Process
Technology Approval Process (Cloud Services): Privacy and Security Assessment Guide

8.3 Legislation

Education Act, R.S.O. 1990, c. E.2
Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56
Personal Health Information Protection Act, S.O. 2004, c. 3, Sched. A
Anti-Racism Act, 2017, S.O. 2017, c. 15

Appendix: None_

Effective Date

2012-02-21

Amended/Reviewed

Effective Date:

2012-02-21

Reviewed and Amended:

YYYY-MM-DD

Reviewed without Amendment:

YYYY-MM-DD



PROCEDURE

PERSONNEL

Privacy

Adopted under the Privacy Policy

1.0 Objective

- 1.1 The Privacy Procedure (the “Procedure”) is adopted under the Privacy Policy of the Durham District School Board (the “DDSB” or “Board”) to:
 - 1.1.1 Support the proper Collection, Use, retention, Disclosure of Personal Information held by the DDSB in accordance with applicable legislation; and
 - 1.1.2 Support the process for accessing information under MFIPPA and PHIPA.
- 1.2 This Procedure is to be interpreted and applied in accordance with the DDSB’s commitment to promoting and upholding Indigenous rights and human rights in all of its learning and working environments. This includes anti-colonial, anti-discriminatory and anti-racist approaches and actions to provide services and employment that are safe, welcoming, respectful, inclusive, equitable, accessible and free from discrimination and harassment consistent with the DDSB’s [Human Rights, Anti-Discrimination and Anti-Racism Policy](#), the [Indigenous Education Policy](#), the [Safe and Respectful Workplace and Harassment Prevention Policy](#).

2.0 Scope

- 2.1 This Policy applies to DDSB employees, service providers, volunteers, trustees, and other individuals acting on behalf of the DDSB.
- 2.2 This Policy applies to all information in the Custody or under the Control of DDSB, including but not limited to the Personal Information of DDSB students, parents, and staff.

3.0 Definitions

In this Procedure,

- 3.1 “**Collect**” means to gather, acquire, receive, or obtain the information by any means from any source, and “Collection” and “Collected” have a corresponding meaning.
- 3.2 “**Control**” means the power or authority to make a decision about the creation, use or disclosure of a record.
- 3.3 “**Custody**” means the keeping, care, watch, preservation or security of a record for a legitimate business purpose. While physical possession of a record may not always be necessary to establish custody, physical possession may be an element of the evidence of custody.
- 3.4 “**De-Identification**” means to remove any information that identifies the individual or for which it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other

information, to identify an individual. De-identified data is any information that identifies the individual removed.

- 3.5 **“Disclose”** means to make the information available or to release it to another person, but does not include to Use the information, and “Disclosure” has a corresponding meaning.
- 3.6 **“Education Act”** is the *Education Act*, R.S.O. 1990, c. E.2 and its regulations, as amended.
- 3.7 **“Freedom of Information Request”** or **“FOI Request”** is a request under MFIPPA or PHIPA for access to information that is in the custody or control of the DDSB.
- 3.8 **“Information Lifecycle”** refers to the various stages that Records go through, from their creation or acquisition to their final destruction or archiving. Access and privacy laws apply to records at any stage of their lifecycle. The life cycle includes creation, collection, use, maintenance, and disposition (destruction or archiving).
- 3.9 **“Information and Privacy Commissioner of Ontario”** or **“IPC”** is an independent officer of the Ontario Legislature with the powers and duties prescribed by legislation, including MFIPPA and PHIPA. The office of the IPC is an independent body tasked with upholding and promoting open government and the protection of personal privacy in Ontario. The IPC has the authority to conduct investigations, issue orders, enforce fines and review disclosure decisions.
- 3.10 **“Least Privilege”** means the principle of allowing users or applications the least number of permissions necessary to perform their intended function.
- 3.11 **“MFIPPA”** is the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56 and its regulations, as amended.
- 3.12 **“Need to Know”** means the principle that the user has a legitimate reason to access something.
- 3.13 **“Personal Information”** or **“PI”** means recorded information about an identifiable individual and includes personal health information. As defined by MFIPPA this may include, but is not limited to:
 - Information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual, Information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
 - Any identifying number, symbol or other particular assigned to the individual,
 - The address, telephone number, fingerprints or blood type of the individual,
 - The personal opinions or views of the individual except if they relate to another individual,
 - Correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
 - The views or opinions of another individual about the individual, and/or
 - The individual’s name if it appears with other PI relating to the individual or where the Disclosure of the name would reveal other personal information about the individual.

3.14 **“Personal Health Information” or “PHI”** has the meaning set out in s. 4 of PHIPA. Specifically, it is “identifying information” about an individual that:

- Relates to the physical or mental health of the individual,
- Relates to the provision of health care to the individual,
- Is a plan of service under the *Connecting Care Act, 2019, S.O. 2019, c. 5, Sched. 1*;
- Relates to payments or eligibility for health care or eligibility for coverage for health care,
- Relates to the donation of any body part or bodily substance of the individual or that is derived from the testing or examination of any such body part or bodily substance,
- Is the individual’s health number, and/or
- Identifies an individual’s substitute decision-maker.

PHI also includes identifying information about an individual that is not PHI listed above but that is contained in a record that includes PHI listed above. Information is “identifying” when it identifies an individual or when it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify the individual.

3.15 **“PHIPA”** is the *Personal Health Information Protection Act, 2004, S.O. 2004, c. 3* and its regulations, as amended.

3.16 **“Privacy Breach”** occurs when personal information is compromised; that is, when it is collected, used, disclosed, retained, or destroyed in a manner inconsistent with privacy legislation.

In the event of a privacy breach, please refer to the [Privacy Breach Protocol](#).

3.17 **“Privacy Incident”** means a real or suspected privacy breach.

3.18 **“Record”** means a record of information, including data in any form, such as a record made, recorded, transmitted or stored in paper or digital form or in other intangible form by electronic, magnetic, optical or any other means, but does not include a mechanism or system for making, sending, receiving, storing, or otherwise processing information.

3.19 **“Safeguard”** refers to measures designed to protect Personal Information regardless of media.

3.20 **“Service Provider”** means a third-party contracted or otherwise engaged to provide services to the DDSB.

3.21 **“Use”** means to view, handle, or otherwise deal with the information, but does not include to Disclose the information, and “Use”, as a noun, has a corresponding meaning.

4.0 Legal Framework

The handling of Personal Information is governed by a legal framework of laws, regulations, standards, and guidelines. MFIPPA and the Education Act are the two main laws that guide access to information and privacy in Ontario's public and separate schools. This Procedure also refers to other applicable legislation, such as PHIPA and the *Child, Youth and Family Services Act*, 2017, S.O. 2017, c. 14, Sched. 1 (the "CYFSA"). These laws also permit or require school boards to Disclose limited Personal Information about students without consent in certain situations.

These laws may be subject to modification by prevailing laws in certain cases, such as the Ontario *Human Rights Code*, R.S.O. 1990, c. H.19 and the *Canadian Charter of Rights and Freedoms*.

4.1 MFIPPA and PHIPA

MFIPPA sets out the rules that school boards and other municipal institutions must follow regarding the Collection, Use, retention, and Disclosure of PI.

PHIPA sets out the rules for Collection, Use and Disclosure of PHI, and *may* apply when students receive health care in school.

4.1.1 Protection. MFIPPA and PHIPPA require that the DDSB protect the privacy of individuals with respect to PI about themselves held by the DDSB, and to provide individuals with a right of access to their own PI. The protection of privacy includes the appropriate Collection, Use, retention, and Disclosure of PI, including the use of appropriate security measures / safeguards to protect information from unauthorized access. Please refer Section 15 of this Procedure and to DDSB procedures on information classification and handling for more information with respect to securing Personal Information.

4.1.2 Access and Correction. MFIPPA also gives individuals a right of access to DDSB records, with some exceptions. PHIPA gives individuals a right of access to their PHI held by DDSB if it engages a Health Information Custodian to collect PHI on its behalf or is deemed to be a Health Information Custodian itself. Both MFIPPA and PHIPA also give individuals the right to correct their PI or attach a statement of disagreement.

4.1.3 Consent. Student PI may require the student and/or the student's parent or guardian to consent to its Use and/or Disclosure. Where a student is under 16, their parent or guardian may exercise the student's privacy rights on the student's behalf.

4.1.4 Staff handling of PI. Staff shall only access, Use and Disclose PI within the Custody and Control of the DDSB in performance of their professional duties.

4.1.5 PI of parents. While the focus of this Procedure is on access to and privacy of student PI, it is important to note that the rights and obligations set out in MFIPPA apply to *any individual's* PI. For example, where a school Collects, Uses or Discloses information about a student's parents, it must protect the privacy of this information.

4.1.6 IPC Complaints. If an individual feels their privacy has been compromised by the DDSB, they file a privacy complaint to the IPC:

The Information and Privacy Commissioner/Ontario
2 Bloor Street East, Suite 1400
Toronto, Ontario M4W 1A8
Telephone: (416) 326-3333 or toll free 1-800-387-0073

Email: info@ipc.on.ca
 Website: www.ipc.on.ca

4.2 **The Education Act and the Ministry of Education Ontario Student Record Guideline**

The Education Act is the main law under which schools and school boards operate. It governs how education is delivered to students in Ontario's publicly funded school system. The Education Act contains a number of sections relevant to access and privacy, including rules about access to and the Collection, Use and Disclosure of information contained in the Ontario Student Record (OSR).

4.2.1 These rules may be subject to modification by MFIPPA in certain cases.

4.2.2 PI is Collected in accordance with section 265(1)(d) of the Education Act, which states that information may be Collected in accordance with the Education Act, its regulations, or guidelines issued by the Minister of Education.

4.2.3 Section 266 of the Education Act provides for the establishment of the student's OSR in accordance with the [Ministry of Education OSR Guideline](#). Section 266 of the Education Act requires that every person shall preserve secrecy in respect of the content of an OSR that comes to the person's knowledge in the course of their duties of employment, and no such person shall communicate any such knowledge to any other person except,

- a. as may be required in the performance of their duties; or
- b. with the written consent of the parent or guardian of the student where the student is a minor; or
- c. with the written consent of the student where the student is an adult, which the age of 18 or until they graduate from a secondary school, whichever comes first.

4.2.4 Reference should be made to the DDSB Human Rights Inclusive Design and Accommodation Procedure regarding requests for accommodation with respect to the OSR process.

4.3 **Ontario College of Teachers Act - Professional Misconduct**

The *Ontario College of Teachers Act*, Regulation 437/97 defines the following as professional misconduct for the purposes of section 30(2) of the Act:

Releasing or disclosing information about a student to a person other than the student or, if the student is a minor, the student's parent or guardian. The release or disclosure of information is not an act of professional misconduct if, the student (or if the student is a minor, the student's parent or guardian) consents to the release or disclosure, or if the release or disclosure is required or allowed by law.

4.4 **Ethical Standards for the Teaching Profession (Ontario College of Teachers)**

The Ethical Standards for the Teaching Profession represents a vision of professional practice. The standard of respect states: "Intrinsic to the ethical standard of Respect are trust and fair-mindedness. Members honour human dignity, emotional wellness and cognitive development. In their professional practice, they model respect for spiritual and cultural values, social justice, confidentiality, freedom, democracy, and the environment."

- 4.5 Other laws, regulations, standards, and guidelines may apply to other professionals, including but not limited to regulated health professionals.

5.0 Responsibilities

- 5.1 The **Privacy Officer** is responsible for:

- 5.1.1 Overseeing the responsibilities of the DDSB's privacy program. These responsibilities include the management of Privacy Incidents, Privacy Breaches, privacy risks, privacy complaints, privacy inquiries, access and correction requests, and requests to implement consent directives.
- 5.1.2 Oversight of privacy impact assessments, privacy safeguards, privacy policies and procedures, privacy audit and compliance activities, and privacy training.
- 5.1.3 Supporting the Associate Director, Corporate Affairs with the privacy aspects of the DDSB information technology security program.
- 5.1.4 Providing the Director of Education and/or the Board of Trustees, as the Director of Education may deem appropriate, with relevant information on material privacy matters, including updates on the status of the privacy program, significant or high-risk Privacy Breaches, privacy audit reports, new privacy legislative, and regulatory and industry developments of note.

- 5.2 **Principals, Managers and Superintendents** are, within their sphere of authority, responsible for:

- 5.2.1 Implementing reasonable security measures and safeguards to protect PI.
- 5.2.2 Ensuring that staff are aware of and adequately trained in their responsibilities as set out in this Procedure, the Privacy Policy, and other supporting procedures and guidelines.
- 5.2.3 Ensuring that agreements with service providers contain, where appropriate, privacy protection provisions regarding the protection, Collection, Use, retention and Disclosure of PI.

- 5.3 **Staff** are responsible for:

- 5.3.1 Complying with the Privacy Policy, this Procedure, legislation, applicable professional standards, and DDSB procedures and agreements when using PI.
- 5.3.2 Reporting any suspected privacy breaches of which they are aware to the Privacy Officer.
- 5.3.3 Taking reasonable steps to ensure the PI within their Custody and Control is secured and protected, including following proper procedures and best practices as directed by their Manager/Principal, the Privacy Officer, and as outlined in this Procedure and DDSB information classification and handling procedures.
- 5.3.4 Participating in any mandatory DDSB training regarding their duties and obligations to protect PI.

6.0 Collection and Use of student Personal Information where consent is not required

6.1 School registration

Where student PI is Collected and Used for the provision of educational services in accordance with the Education Act for a student who has registered in the DDSB, consent of the parent/guardian/student is not ordinarily required. However, at time of Collection, individuals must be given notice of:

6.1.1 the legal authority for Collection,

6.1.2 the purpose(s) of its intended Use, and

6.1.3 the title and contact information of an individual who may respond to specific questions regarding the Collection.

6.2 Planning and delivering educational programs and services

In general, teacher(s), principal(s) and supervisory officer(s) may Collect, Use and Disclose a student's PI for the purpose of planning and delivering educational programs and services that best meet student needs.

Educational programs and services include ancillary services such as student transportation. For example, student addresses may be provided to the Durham Student Transportation Services and bus operators for the provision of home to school transportation.

Ordinarily, PI will be Collected directly from the student or parent/guardian for the purposes necessary for the creation and delivery of appropriate educational program(s) for the student or for the proper administration of any other lawfully authorized activity.

6.3 In performance of assigned duties

A student's PI may be Used by officers or employees of the DDSB who need the information, including access to a record, in the performance of their duties – i.e. student PI may be shared internally on a limited need-to-know basis. Use of PI for this purpose is in accordance with MFIPPA and the Education Act.

6.4 Annual Notice of the Collection and Use Student Personal Information

The DDSB shall publish annually a Notice of the Collection and Use Student Personal Information (**Appendix A**) which outlines student PI that is routinely Collected and Used for the provision of educational services to students. This notice statement shall be reviewed by the Privacy Officer and shall be posted on the DDSB websites and included within student handbooks. Consent to the Collection and Use of information as outlined in this notice statement is not required.

6.4.1 Parents/guardians/students are invited to communicate any concerns they may have regarding the Collection and Use of information outlined in this notice statement to their school principal. The principal may consult with their Superintendent of Education and/or the Privacy Officer in addressing concern.

7.0 Collection and Use of student Personal Information where consent is required

7.1 Use and Disclosure of student PI for a purpose other than planning and delivering educational programs and services that best meet student needs or in accordance with the specific exceptions outlined in MFIPPA and PHIPA will generally require written consent.

7.2 Purposes requiring consent including, but are not limited to:

7.2.1 Release of OSR Documents (Appendix B)

7.2.2 Collection and/or Release of Personal Information (Appendix C)

7.2.3 Photographs and Recordings (Appendix D)

7.2.4 Participation in Media or Promotional Activities (Appendix E)

7.3 Parental consent and age for student consent

The rules surrounding the age at which a person can provide consent are different under MFIPPA and the Education Act; both statutes may be subject to modification by prevailing laws in certain circumstances.

7.3.1 Under MFIPPA, an individual having lawful custody (for example, a parent or guardian) of a child under 16 years of age may provide consent on the child's behalf. The child may also provide consent. Once a student turns 16, their parent or guardian may no longer consent on their behalf.

7.3.2 Under the Education Act, the parent or guardian of a student under 18 may provide written consent for the Use or Disclosure of information from the child's OSR. Once a student is 18 or older, the student alone may provide the consent.

7.3.3 Where school boards are required to seek consent for the Use or Disclosure of PI, they should make sure that the person consenting understands what information the DDSB is seeking consent to Use or Disclose, and the purposes for the Use or Disclosure.

7.3.4 Where consent to Collect, Use or Disclose PI is required, consent shall *ordinarily* be sought from a parent/guardian for students under the age of 16 and from the parent/guardian and the student for students 16 to 17. Consent will be sought from students 18 and older unless there are reasons to believe that the student is incapable of consenting on their own behalf (**Appendix C**).

7.3.5 A student who is under 16 will generally have their privacy rights exercised by a parent or guardian, on the student's behalf without specific authorization. Where the student is 16 or 17, both the parent and the student shall consent to the Collection, Use and Disclosure of PI, except in circumstances where the student is not capable to exercise their rights.

7.3.6 Students aged 16 and 17 may withdraw from parental custody. If a student aged 16 or 17 has informed their school principal about such a withdrawal in writing the student's sole consent for the Collection, Use and Disclosure of their PI shall be sufficient authority.

7.3.7 Reference should be made to the DDSB Human Rights Inclusive Design and Accommodation Procedure regarding requests for accommodation with respect to parental consent and age for student consent.

8.0 Disclosure of student Personal Information

8.1 With Consent

If the person to whom the information relates has identified specific information and has consented to its Disclosure, that information may be Disclosed. When dealing with minors, it is a best practice to have consent in writing with an original signature from the parent/guardian and the minor, where the minor is 16 or 17. **(Appendix C)**

8.2 Without Consent

The DDSB may Disclose PI in its custody and control, including from the OSR, without the consent of the parent/guardian/student, in the following circumstances.

8.2.1 Consistent Purpose

Information may be Disclosed for the purpose for which it was obtained or compiled or for a consistent purpose, provided that the individual about whom the information relates might reasonably have expected such a Use or Disclosure of the information.

8.2.2 In Performance of Assigned Duties

PI may be made available to an officer, employee, trustee consultant or agent of the DDSB who needs the record for the performance of duties within their scope of authority and if the information is necessary and proper for the discharge of the institution's functions.

Information shall be limited to that which is necessary for the required purpose.

Under the Education Act, supervisory officers, principals, teachers and designated early childhood educators may Disclose information in the OSR to improve the instruction and other education of the student.

8.2.3 Legal Authority

PI may be Disclosed for the purpose of complying with an Act of the Legislature or an Act of Parliament, an agreement or arrangement under such an Act. MFIPPA prevails over the confidentiality provisions in the Education Act, including those related to OSRs. This means that the DDSB may Disclose a student's PI, including the OSR, if MFIPPA permits it.

Contact your Superintendent of Education; the Superintendent of Education / Employee Relations; or the Privacy Officer with any questions related to Disclosures of this kind.

8.2.4 Law Enforcement

Personal Information (that is not the OSR) may be Disclosed to an institution or a law enforcement agency in Canada to:

- (a) aid an investigation undertaken with a view to a law enforcement proceeding, or
- (b) from which a law enforcement proceeding is likely to result.

In non-urgent situations, police shall provide a written statement that PI is required for

investigative purposes. MFIPPA does not permit ongoing or informal arrangements for the automatic Disclosure of PI to law enforcement agencies.

The contents of the OSR may be made available to the police in the following circumstances:

- (a) with the written permission of the parent or guardian of the student or, where the student is an adult, with the written permission of the student; or
- (b) through a warrant requiring the surrender of an OSR to the police.

8.2.5 Health and Safety

PI may be Disclosed in compelling circumstances affecting the health or safety of an individual, if, upon Disclosure, notification is mailed to the last known address of the individual to whom the information relates.

When Disclosing information under this section, the imminence and reasonableness of the risk to health and safety must be considered and balanced with the invasion of privacy.

The Superintendent of Education and Privacy Officer must be consulted.

8.2.6 Compassionate Circumstances

When there is a need to notify a close relative, friend, or spouse of a parent/guardian of a student who is injured, ill or deceased, school boards may Disclose PI without consent in order to facilitate or enable contact.

For example, if a young student is ill and the student's parent cannot be reached, the school may decide it needs to Disclose this information to someone at the parent's workplace to help make contact with the parent. The information Disclosed by the school should be limited to only that which will "facilitate contact" – in this case, it means that the school could Disclose to the parent's workplace that the child was ill and needs to be picked up, but should not Disclose the nature of the illness or other details.

9.0 Collection, Use and Disclosure of student Personal Health Information

- 9.1 The DDSB utilizes the services of and employs health professionals (e.g., speech language pathologists, psychologists, social workers) who are required to treat PHI in accordance with PHIPA and applicable professional standards.
- 9.2 The health professionals will obtain consent from the parent/guardian/student, when required, prior to providing their services.
- 9.3 The DDSB Collects PHI from health professionals with the consent of the parent/guardian/student and only as is reasonably necessary for the purpose of planning and delivering educational programs and services that best meets student needs.
 - 9.3.1 A signed consent form describing the purposed Use of the PHI is presented to the health professional authorizing the release of the record(s).
 - 9.3.2 PHI may be used for the purposes identified in the consent form and may be shared only with certain DDSB employees and/or Service Providers if it is necessary for them to perform their duties. Ordinarily, these would be DDSB employees who are working

directly with or have responsibility for the student.

- 9.4 Where a student has been diagnosed with an illness, disease or disorder that may be transmitted through bodily fluids, the DDSB's requirement that all releases of bodily fluids require the implementation of Universal Precautions will protect students and staff, without requiring the release of that student's PHI.
- 9.5 Sharing student PHI with certain DDSB employees will only be necessary in limited and specific circumstances requiring the creation of a Student Safety Plan. Consultation with their Superintendent of Education will be necessary before a Safety Plan is created and the student's PHI is shared with staff.

9.6 **Student Health Card Numbers**

The DDSB may receive a student's health card number to facilitate emergency care during a field trip or co-curricular activity. In all such cases, the number shall only be recorded for the trip or activity at issue. The DDSB shall not require parents/guardians/students to provide a health care number as part of the registration process or as a condition of attending school or participating in a field trip or school-related event. Health cards numbers shall not be recorded in the student information system and shall be protected from unauthorized access.

10.0 **Parental and student access to Personal Information**

Access to OSR and non-OSR student information is governed as follows:

10.1 **Student and parental access to OSR – Informal Requests**

If a student, or their parent or guardian, wants to access the student's PI, they might choose to ask for the information informally – by asking the school/school principal for a particular record.

If an informal request is not appropriate, or the OSR records are numerous and lengthy, they may choose to make a formal access request under the Education Act.

10.2 **Student and parental access to OSR under the Education Act**

A child of any age has the right under the Education Act to examine their OSR.

Subject to the dispute resolution mechanisms outlined in the Education Act, and until the child turns 18 (unless this right is limited by a court order or a separation agreement), all parents/legal guardians have a right to, without the child's consent, at no cost:

- 10.2.1 examine their child's OSR at the school office;
- 10.2.2 request corrections to their child's OSR;
- 10.2.3 request the removal of information from their child's OSR; and
- 10.2.4 request to pick up from the school hard copies of records from their child's OSR (electronic copies and mailed hard copies will not be provided).

Where a student of 16 or 17 has withdrawn from parental control, this right of access would likely not apply and will require assessment of the facts by the Principal, who may consult with the Privacy Officer.

10.3 Student and parental access to Personal Information under MFIPPA

A child of any age has the right to exercise their access rights under MFIPPA. This includes requesting access to general records held by the school or school board and/or to their PI.

Until a child turns 16, anyone having lawful custody of the child has a right under MFIPPA to access the child's record of PI on behalf of the child, without the child's consent being required. If the record is in the OSR, the access rights of parents/guardians extend until the child is 18.

A charge of twenty cents per page may be charged for copies of records (in accordance with MFIPPA).

Principals may consult with their Superintendent or DDSB Legal Services regarding this process.

10.4 Parents' Access

Parents with decision-making responsibility and those with parenting time have a general right to be given information concerning their children's health, education, and welfare unless this right is limited by a court order or a separation agreement. This right exists until the student turns 18 or is 16 or 17 and has removed themselves from parental control. Parents may access an OSR in accordance with the [Ministry of Education OSR Guidelines](#) and other applicable laws.

See Section 11.3 of this Procedure for more information on custody and access orders and agreements.

10.5 Non-OSR information

Parents with decision making responsibility and those with parenting time have a general right to information and may be provided with:

- 10.5.1 an opportunity to attend parent-teacher interviews;
- 10.5.2 report cards, school newsletters, and other similar information; and,
- 10.5.3 other information about their children customarily given to parents.

11.0 Third Party Requests for student Personal Information

11.1 Parent's Lawyer and Litigation

Information shall not be Disclosed to third parties, including a parent's lawyer, without the express consent of the parent/guardian/adult student.

A duly executed release form which clearly identifies the information requested, and includes original or electronic signatures, may be used as authority to release the information to the parent's lawyer. **See Appendix B.**

Staff shall take reasonable care to authenticate the request, which may include contacting the parent/guardian/adult student or requesting identification or credentials.

Consent forms for access to OSR records shall be retained in the OSR. **See Appendix B.**

The ***Request for Release of OSR By Way of SIGNED CONSENT (only) CHECKLIST*** (a copy of which may be obtained from the Privacy Officer) provides additional guidance for responding to OSR requests from law firms.

Staff shall not:

- 11.1.1 provide letters supporting parenting capability or otherwise provide student information for the sole purpose of supporting a parent's litigation;
- 11.1.2 agree to participate in an interview with a parent's lawyer (see section 11.4.4 of this Procedure for requests from the Office of the Children's Lawyer);
- 11.1.3 complete testing or assessment reports that have not been reviewed by DDSB psychological services or that do not comply with established DDSB testing criteria; or
- 11.1.4 provide assessments or opinions on matters other than a student's educational progress or educational needs.

11.2 External Health and Social Service Professionals and Paraprofessionals

When schools are working with external agencies for the provision of services by regulated health professionals, regulated social service professionals and paraprofessionals, school administrators must ensure that informed consent processes are followed as outlined in the as outlined in applicable DDSB policies and procedures for collaboration with external agencies for provision of services.

11.3 Custody and Access Orders and Agreements

- 11.3.1 ***Custodial parental rights.*** Except where limited by legislation, court order, separation agreement, or other legally binding agreement, parents have a right to make inquiries and to be given information as to the health, education, and welfare of the child.
- 11.3.2 ***Parents with Parenting Time.*** A parent with parenting time has the right to make inquiries and be given information as to education including report cards and attendance records, and meeting for a parent/teacher interview. However, School Administrators should be mindful of any limitations of this right that may apply, including requests for information that extend beyond the subject of the child's education.
- 11.3.3 ***Obtaining and Validating court/legal documents.*** School Administrators shall attempt to obtain court orders and/or agreements pertaining to child custody where there exists a reasonable belief that such documents exist. School Administrators shall exercise diligence to ensure that all court orders and agreements pertaining to custody and access are current, accurate, and complete. In the absence a final sealed court order, the Principal may contact both parents to confirm the validity of any court order or agreement between the parties.
- 11.3.4 ***Compliance with orders/agreements.*** School Administrators and staff shall use best efforts to comply with any court order or agreement that *sets out the rights of the parents*. However, neither the DDSB nor the school are responsible for the enforcement of a court order or agreement, nor are they responsible for mediating any dispute between the parties to these document.
- 11.3.5 ***School Records.*** Any court order or agreement, the existence of which the school has become aware, that describes a custody and access arrangement shall be included by the school principal in the OSR.
- 11.3.6 ***Staff access to orders/agreement information.*** All relevant staff shall be made aware of any custody orders regarding their students, which include any limitations on a parent's right to information about a student.

- 11.3.7 **DDSB Support.** School Administrators shall contact DDSB Legal Services and/or their Superintendent of Education for support with respect to any questions or concerns pertaining to the application, interpretation, and legal requirements contained within custody and access orders and agreements.

11.4 Government Agencies or Officials

Government agencies or officials may request student PI in the course of conducting their duties, and MFIPPA permits Disclosure for the purposes of complying with other legislation.

The following are examples of situations where it is mandatory to Disclose student PI, and where consent is not required. However, DDSB employees shall take steps to ensure the request is properly authorized and that the legal authority is valid. If uncertain, staff are to consult with their Superintendent or DDSB Legal Services.

11.4.1 Children's Aid Society

In accordance with the CYFSA, a children's aid society may Collect information about a student under 16 when investigating child protection cases.

The "**duty to report**" under the CYFSA states that if any person – including a teacher or principal – has reasonable grounds to suspect that a child under the age of 16 is in need of protection, they are required to immediately report the suspicion and the information on which it is based to a children's aid society. For more information on the duty to report, see the [DDSB Reporting Children and Youth in Need of Protection Procedure](#).

In accordance with ss.129(4-6) the CYFSA, outside of the duty to report, a person may also choose to report information to the society review team, which is a team each children's aid society establishes to recommend how a child can be protected. Despite the provisions of any other act, a person may Disclose information to this team even if the information is confidential or privileged. No legal action for Disclosing the information can be taken against the person unless they acted maliciously or without reasonable grounds to suspect that a child is in need of protection.

11.4.2 Ministry of Education

In accordance with section 8.1 of the Education Act, the Minister of Education may Collect PI, directly or indirectly, for purposes related to the following matters, and may Use it for those purposes:

- (a) Administering the Education Act and the regulations, and implementing the policies and guidelines made under the Education Act;
- (b) Ensuring compliance with the Education Act, the regulations, and the policies and guidelines made under the Education Act;
- (c) Planning or delivering programs or services that the Ministry provides or funds, in whole or in part, allocating resources to any of them, evaluating or monitoring any of them or detecting, monitoring, and preventing fraud or any unauthorized receipt of services or benefits related to any of them;
- (d) Planning or delivering extended day programs, allocating resources to them, evaluating or monitoring them or detecting, monitoring and preventing fraud or any unauthorized receipt of services or benefits related to them;

- (e) Providing for financial assistance related to extended day programs, evaluating or monitoring the provision of the assistance or detecting, monitoring and preventing fraud or any unauthorized receipt of benefits related to the assistance;
- (f) Risk management, error management or activities to improve or maintain the quality of the programs or services that the Ministry provides or funds, in whole or in part;
- (g) Risk management, error management or activities to improve or maintain the quality of extended day programs;
- (h) Risk management, error management or activities to improve or maintain the provision of financial assistance related to extended day programs; or
- (i) Research and statistical activities that relate to education and are conducted by or on behalf of the Ministry.

11.4.3 Local Medical Officer of Health

Section 266 (2.1) of the Education Act states that the following information is available, upon request, to the local Medical Officer of Health serving the area in which the DDSB is located:

- (a) the pupil's name, address and telephone number;
- (b) the pupil's date of birth; and
- (c) the name, address and telephone number of the pupil's parent or guardian.

PI may also be required to support Mandatory Public Health Programs, e.g., communicable disease and oral health, under the *Health Protection and Promotion Act, R.S.O. 1990, c. H.7*. Staff shall comply with these requests in accordance with the DDSB [Communicable Diseases](#) procedure.

11.4.4 The Office of the Children's Lawyer

The Office of the Children's Lawyer ("OCL") is appointed by a court to act on a student's behalf as their lawyer. Upon receipt of the signed consent of the parent/guardian, the student's lawyer or their designate may examine an OSR in accordance with the Education Act, may interview staff about the child's academic progress and may interview the student at school if they request to do so.

Before participating in an interview with a lawyer, psychologist, or social worker from the OCL or providing a written assessment to the OCL, DDSB staff members shall seek input from DDSB Legal Services and/or their Superintendent.

DDSB staff members may provide the OCL with the same information that would ordinarily be provided to a parent, as outlined above, including a fair and accurate assessment of a child's educational progress or educational needs.

Teachers and administrators shall take reasonable care to ensure that all factual information conveyed is true and provides a fair, accurate and appropriate assessment of the student.

11.4.5 Youth Criminal Justice Act

The Youth Criminal Justice Act (“YCJA”) protects the privacy and identity of young persons involved in the criminal justice system. The YCJA prohibit all persons, including police, youth courts and school board officials, from Disclosing the identity of a young offender.

However, Disclosure is allowed between police services and school authorities to ensure safety of staff, students, or other persons or when authorized by a court order. The sharing of information must take into account a balance between the need to share information in a timely fashion, particularly when safety is a concern, and the need for personal privacy.

11.4.6 Eligibility Review Officers

These officers may investigate eligibility for government payments under several acts, including the *Ontario Disability Support Program Act, 1997*, the *Ontario Works Act, 1997, S.O. 1997, c. 25, Sched. A*, and the *Family Benefits Act, R.S.O. 1990, c. F.2*.

Eligibility review officers may make a written demand to the DDSB for the production of records. If the officer makes such a demand, the school board or principal must comply and may seek guidance or assistance from DDSB Legal Services in that regard.

11.5 Media Coverage at School

Principals shall ensure that student interaction with the media is conducted in accordance with the [DDSB Handling of Media at the School Level Procedure](#), and with the following guidelines:

11.5.1 Notice

Students must receive written notice of the possibility of media exposure and of the principal’s inability to control or prevent media exposure when a school-sponsored activity occurs off school grounds or when a school-sponsored activity occurs on school grounds but is open to the general public. The required notice is included in the annual *Notification of the Collection and Use of Student Personal Information (Appendix A)* and may also be conveyed on the consent to participate form or sent home on a separate flyer. It may also be published in the student handbook, which is distributed at the beginning of every school year or semester to students.

Knowledge and acceptance of the possibility of media exposure at open events may be made a condition of participation in the activity.

11.5.2 Consent

Even if notice of media exposure has been given, specific consent of the parent/guardian/adult student must be obtained before a member of the media is permitted to photograph or speak to specific students for stories which are of an in-depth nature. (**Appendix D**)

Where it is not possible to get written consent of a parent in advance of a student interview, the principal may accept a verbal consent and shall note on the form that the parent has provided verbal consent.

11.5.3 **Validate media credentials.**

Principals must validate the credentials of any member of the media before inviting them onto school grounds by collecting and recording the following information:

- (a) the name and nature of the media corporation the person represents;
- (b) the topic of the feature/story (e.g., student achievement, school closures, health education);
- (c) the type of information the reporter would like to gather from the student (regardless of what will actually be publicized), e.g., team photo, name of students, school, or individual student photo, opinion on school activity.

11.5.4 **Conduct of interviews.**

Interviews of students by the media shall be conducted under the supervision of a DDSB employee.

11.5.5 **Access denial.**

The Board may impose conditions for attendance by the media on school property. If media representatives breach such conditions, the Board may deny them access to school property, including future access.

12.0 Privacy in the networked classroom and the use of online educational services

- 12.1 The Board shall ensure that all applications are reviewed and approved prior to introduction into the classroom in accordance with the [Technology Approval Process](#).
- 12.2 The Board shall ensure that all application providers are subject to privacy protections at least as comprehensive as the Board is obliged to comply with when Collecting, Using, retaining or Disclosing PI.

13.0 Privacy Breaches

- 13.1 If staff becomes aware of a suspected or actual privacy breach, they must immediately notify their principal/supervisor to ensure that immediate action can be taken to mitigate the impact/results of the breach.
- 13.2 For information about responding to a privacy breach, contact your Superintendent and/or the Privacy Officer at foi.privacy@ddsb.ca. See [Privacy Breach Protocol Procedure 3106](#) for more information.

14.0 Ontario Education Number

- 14.1 The Ontario Education Number (OEN) is a unique number assigned to each person who is enrolled in or who seeks admission to be enrolled in a school.
- 14.2 The Education Act, section 266, allows for the OEN to be Collected, Used, or Disclosed for purposes such as the provision of educational services and for purposes related to education administration, funding, planning, research, and for providing financial assistance to students.

- 14.3 No person shall, Collect, Use, or Disclose another person's OEN except as provided by the Education Act.

15.0 Security and Handling of Personal Information

- 15.1 Reasonable Safeguards must be applied according to the level of sensitivity throughout the Information Lifecycle. Controls can be administrative, physical and/or technical.
- 15.1.1 Administrative Safeguards examples may include: staff training; privacy and security policies procedures and standards; confidentiality agreements; and privacy impact assessments.
 - 15.1.2 Physical Safeguards examples may include: controlled access to locations where PI is stored; identification, screening and supervision of visitors; door and cabinet locks; access cards and keys; paper shredders; and alarm systems.
 - 15.1.3 Technical Safeguards examples may include: authentication and access controls; logging, auditing and monitoring; strong passwords, encryption, maintaining up-to-date software by applying the latest security patches; firewalls; hardened servers; intrusion detection and prevention; anti-virus; anti-spam; and/or anti-spyware software; protection against malicious and mobile code; threat risk assessments; screen savers with passwords; and access control lists.
- 15.2 PI must be released only on a Least Privilege, Need to Know basis consistent with DDSB policies and procedures.
- 15.3 Safeguards should be periodically reviewed to ensure they continue to be reasonable.
- 15.4 Many DDSB departments already have Safeguards in place for Personal Information. Such Safeguards must be reviewed to ensure they comply with the requirements in this Procedure.

Physical Information and Records

- 15.5 Records containing PI shall be always kept secure. To preserve the confidentiality, integrity and availability of Records:
- 15.5.1 Take Records containing PI off-site only when necessary and, whenever practical, the original record shall remain on-site and only copies removed. Original OSRs shall not be removed from the school unless they are being transferred to a new school and must remain at last school of attendance.
 - 15.5.2 Copies of documents containing PI shall be clearly identified as such and destroyed when no longer needed. Original documents containing PI shall be destroyed in accordance with a records retention schedule approved by the Privacy Officer.
 - 15.5.3 A sign-in/sign-out procedure including sign out date to monitor removed files shall be established.
 - 15.5.4 Records containing PI shall be returned to a secure environment as quickly as possible, for example, at the end of a meeting or the end of the day.

- 15.6 All working copies of paper files containing PI shall be returned to the office or a secure environment for destruction. Such records shall never be discarded in an individual's office, home or a public trash or recycling bin.
- 15.7 Visitor access to areas where records containing PI is being worked on or is stored shall be controlled. Unknown persons seen in operational areas shall be questioned. (e.g., Can I help you? Are you looking for someone?)
- 15.8 Areas of the building where PI is stored shall be secured after normal business hours.
- 15.9 Keys and access to locked file cabinets and locked areas shall be controlled and monitored.

Computers, Emails and Electronic Information

- 15.10 Email messages shall not contain PI about an identifiable individual unless necessary. Where it is necessary to include such information in an email, consider using the individual's initials, symbols, or a code rather than a full name to help maintain anonymity of the individual.
- 15.11 Emails and documents containing sensitive PI shall be encrypted in transit and at rest.
- 15.12 Passwords for encrypted files must be communicated through an out-of-band method, e.g., phone, text, portal, in person, mail.
- 15.13 The following email protection options in Microsoft Outlook should be utilized according to the level of sensitivity:
 - (a) *Encrypt Only*: Encrypts the message without additional permissions.
 - (b) *Do not forward*: recipients can read the message but cannot forward, print, or copy the content. The Information Owner has full permission to their message and all replies.
 - (c) *Confidential / All Employees*: requires protection which allows all employees full permissions. Information owners can track and revoke content.
 - (d) *Highly Confidential / All Employees*: allows all employees to view, edit, and reply permissions to this content. Data owners can track and revoke content.
- 15.14 Where possible, computer monitors shall be positioned to minimize unauthorized viewing of the PI displayed on the monitors. Monitors displaying PI shall never be left unattended and password protected screen saver options shall be used during periods of inactivity. These measures shall also be taken while working remotely.
- 15.15 Computer hard drives and file storage media must be rendered unusable when disposed of.

Mobile Devices

- 15.16 Mobile devices include, but are not limited to, laptops/notebook computers, tablets, cellular phones, and removable media (flash drives, memory sticks, removable drives).
- 15.17 All mobile devices must be secured against improper access, such as password protection and/or encryption.

- 15.18 PI shall not be stored on laptop hard drives unless these hard drives are protected by encryption software. If it is necessary to store data containing PI on the hard drive of a laptop, password protect the file and maintain the anonymity of the individual by initials or codes, when and where possible. Staff are encouraged to save documents or files that contain PI to DDSB Network drives or DDSB issued cloud storage media such as OneDrive or Google drive.
- 15.19 PI may not be transmitted to any destination external to DDSB without encryption.

Verbal Communications

- 15.20 When communicating PI, consider the physical setting and try to ensure that no one overhears the conversation, i.e., hallways, main office, etc. public telephones, etc.
- 15.21 When the work environment is not conducive to privacy while collecting or communicating PI, end and reschedule the conversation or move to a more private environment.

16.0 Retention Personal Information

- 16.1 Retention of PI will be subject to legislation and the Board's records retention schedules.
- 16.2 In accordance with MFIPPA, PI that has been Used shall be retained for a minimum of one year. This includes, but not limited to information such as teacher mark records, common assessment data, Individual Education Plans, etc.

17.0 Reference Documents

17.1 DDSB Policies

[Human Rights, Anti-Discrimination and Anti-Racism Policy](#)
[Indigenous Education Policy](#)
[Privacy Policy](#)

17.2 DDSB Procedures

[Acceptable and Safe Use Procedure for Computing Technology Safety](#)

[Collaboration Agreement With External Agencies For Provision Of Services By Regulated Health Professionals, Regulated Social Service Professionals, And Paraprofessionals \(Ministry Of Education Policy/Program Memorandum #149\)](#)

[Communicable Diseases](#)

[Electronic Monitoring](#)

[Guidelines for E-Mail](#)

[Handling of Media at the School Level Procedure](#)

[Human Rights, Anti-Discrimination and Anti-Racism Procedure](#)

[Human Rights Inclusive Design and Accommodation Procedure](#)

[Human Rights Roles, Responsibilities and Accountability Framework](#)

[Privacy Breach Protocol](#)

[Reporting Children and Youth in Need of Protection Procedure](#)

[Staff Mobile Phones](#)

[Student/Family Human Rights Issue, Incident and Complaint Resolution](#)

[Technology Approval Process](#)

[Technology Approval Process \(Cloud Services\): Privacy and Security Assessment Guide](#)

[Video Surveillance System](#)

17.3 Legislation

[Anti-Racism Act, 2017, S.O. 2017, c. 15](#)
[Canadian Charter of Rights and Freedoms](#)
[Child, Youth and Family Services Act, 2017, S.O. 2017, c. 14, Sched. 1](#)
[Education Act, R.S.O. 1990, c. E.2](#)
[Family Benefits Act, R.S.O. 1990, c. F.2](#)
[Health Protection and Promotion Act, R.S.O. 1990, c. H.7](#)
[Human Rights Code, R.S.O. 1990, c. H.19](#)
[Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56](#)
[Personal Health Information Protection Act, S.O. 2004, c. 3, Sched. A](#)
[Occupational Health and Safety Act, R.S.O. 1990, c. O.1](#)
[Ontario Disability Support Program Act, 1997](#)
[Ontario Works Act, 1997, S.O. 1997, c. 25, Sched. A](#)
[Youth Criminal Justice Act \(S.C. 2002, c. 1\)](#)

17.4 Other Documents

Ministry of Education OSR Guideline:
<https://www.ontario.ca/page/ontario-student-record-osr-guideline>

Appendix:

Appendix A: Notification of the Collection and Use of Student Personal Information
 Appendix B: Consent to the Release of OSR Documents
 Appendix C: Consent to the Collection and/or Release of Personal Information
 Appendix D: Photographs and Recording Consent, Waiver and Release
 Appendix E: Consent to Participate in Media or Promotional Activities

Effective Date

2012-06-15

Amended

2023-09-19

Appendix A

Notification of the Collection and Use of Student Personal Information

Legal Authority for Collection of Student Personal Information

The purpose of this communication is to notify you of how the Durham District School Board and your school use the personal information you provide to us in accordance with the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA). The MFIPPA is a law that sets guidelines that schools and district school boards must follow when this collecting, using and/or and disclosing students' personal information. Under this Act, personal information refers to recorded information about an identifiable individual.

The Education Act sets out duties and powers of the Board and authorizes school boards to collect personal information for the purpose of planning and delivering educational programs and services which best meet students' needs and for reporting to the Minister of Education as required. This Act requires that the school principal maintain an Ontario Student Record (OSR) for each student attending the school. The OSR is a record of a student's educational progress through school in Ontario and follows students when they transfer schools. The Ontario Student Record Guideline sets out how record is to be managed. The Durham District School Board adheres to this OSR guideline.

Purpose of Collection of Student Personal Information

Under the MFIPPA, personal information may be used or disclosed by the Durham District School Board:

- for the purpose for which it was obtained or a consistent purpose (a purpose consistent for the reason collected);
- to Board officers or employees who need access to the information in the performance of their duties if necessary and proper in the discharge of the Board's authorized functions;
- to comply with legislation, a court order or subpoena or to aid in a law enforcement investigation conducted by a law enforcement agency; and,
- in compelling circumstances affecting health or safety (providing notice of the disclosure is sent to the student's home).

Where Consent is Required

Prior to releasing confidential information for any other purpose, the school will seek informed consent from the parent/guardian for children under 16 years of age, from the parent/guardian and the student where the student is 16 and 17, and from the student where the student is over 18 or the student is 16 or 17 years of age and has withdrawn from parental control, in accordance with both MFIPPA and the Education Act.

It is our practice to include a notice statement on forms used to collect personal information to advise you how we will use and disclose the information.

Routine Uses and/or Disclosures of Student Personal Information

To help you understand how we use the information you provide to us, we draw your attention to the following routine uses and/or disclosures of student personal information so that you may express any concerns you may have regarding the release and sharing of the information:

Please communicate any concerns you have with regards to the sharing of personal information in any or all of the following circumstances by contacting the school principal as soon as possible.

The following will apply unless a written objection is filed with the Principal and an alternative resolution can be found.

- The student's OSR information and achievement data will be used by school and board staff to support the classroom teacher in developing an educational program which best meets the student's needs. Staff working with the classroom teacher or directly with the student may include individuals working in areas such as Special Education, guidance counseling, student success, SERT, Educational Assistant, school administration, staff members of the school improvement team, etc.
- In keeping with the requirements of the *Education Act* and the *Personal Health Information Protection Act*, informed consent will be sought prior to conducting intelligence or behavioural tests, or prior to the involvement of Psychological, Speech and Language or Social Worker staff.
- Secondary schools will receive information about registered Grade 8 students in advance of the student attending the secondary school to help establish an appropriate program for the student.
- The secondary school will share information about each student's progress through secondary school with the student's previous elementary school to support continuous improvement of the elementary school program for all students.
- Student home addressees may be released to the Durham Student Transportation Services and the contracted bus company responsible for transporting students to and from school in order to administer the Board's contracted bus program.
- School activities may be reported in school and Board newsletters, and on school and Board websites. Individual students will only be photographed, recorded (audio/video) and identified with appropriate consents.
- The media, such as newspapers, web-based news services, television and radio, may be invited to the school for the purpose of reporting on newsworthy events or activities such as graduations, student achievements/awards, and current events. Their reports may include non-identifying photos of groups of students. Individual students would only be photographed or identified with appropriate consent. This consent may be given by way of the check box on the back of the **Student Registration** form, or in the case of more in-depth media coverage, a separate consent form will be sent home to parents.

- Parents/guardians/adult students shall be aware that when students participate in extra-curricular or non-compulsory activities off school grounds, the school principal is unable to control or prevent any media exposure which may occur.
- Students may be recorded (video or audio) or photographed by their classroom teacher in school or during school activities as part of their educational program. Photos may be shared with the class and parents as appropriate.
- Students may participate in video conferencing (a technology which allows for two or more locations to interact via simultaneous two-way video and audio transmissions) to support the classroom program. Conferences may be organized with students in other DDSB schools, students in other countries and or as virtual field trips.
- Phone numbers will be used on telephone lists. Examples include:
 - emergency contact lists to facilitate contact with parents during emergencies (e.g., inclement weather);
 - safe arrival programs, which may be staffed by parent volunteers, to contact parents where a student is absent and the parent/guardian has not notified the school of the absence;
 - volunteers, authorized by the Principal, to contact parents regarding school-related activities which benefit the student and the school community and require parent involvement.
- Parents/guardians/adult students are asked to complete Student Medical/Health Data forms for the purpose of developing a medical emergency plan for the student or Administration of Medication in School forms for the purpose of administering medication to the student. Medical emergency plans may be provided to school staff and the Durham Student Transportation Services and/or contracted bus operators to aid in a medical emergency.
- In compliance with the Personal Health Information Protection Act, student health numbers (OHIP) will not be collected; however parents/guardians/students may be invited to volunteer such information for students going on field trips to facilitate medical services if needed.
- Student work (i.e. Artwork, written creations, video and audio creations, and online creations) including student names, may be displayed in the classroom or in school hallways, or may be shared with the public events such as school and board newsletters, web applications, writing/colouring/poster contests, community events, fairs, and similar events/locations outside the school setting.
- Student accidents that take place during school or on school-sponsored activities will be reported to the DDSB insurer. Reports include the name of the injured student(s) and details about the incident as well as the name and contact information of witnesses to the accident.
- Birthday congratulations may be announced over the PA system and/or in the classrooms.

- Class lists with student first names and last initial only may be distributed to other parents for the purpose of addressing greeting cards or invitations in connection with holidays, birthday parties, etc.
- Surveillance equipment may be used in schools and on buses to enhance the safety of students and staff, to protect property against theft or vandalism, and to aid in the identification of intruders and of persons who endanger the health, wellbeing or safety of school community members.
- Student names and/or photographs may be printed in school programs (e.g. commencement or graduation programs, school plays and musical productions, student awards, academic and athletic awards and plaques, school brochures, honour roll and classroom assignment during school and semester start up) and in school yearbooks.
- Student names, school, and classroom designations may be shared with board-approved third party web 2.0 providers for the purposes of registrations and authentications.
- Student work may be stored on board approved third party web 2.0 servers for the purposes of on-line student collaboration, creation and presentation.

Questions regarding the information contained in this notification may be addressed to one or more of the following:

1. School Principal: [SCHOOL MAILING ADDRESS AND PHONE NUMBER]
2. Privacy Officer: 400 Taunton Road East, Whiby, ON L1R 2K6, foi.privacy@ddsb.ca, 905-666-5500

Appendix B

CONSENT TO THE RELEASE OF OSR DOCUMENTS

The Ontario Student Record (OSR) is a compilation of student's educational progress through school in Ontario and follows students when they transfer schools. It is used by school board staff to establish an educational program that best meets the student's needs. The Education Act requires that a school receive the consent of the parent prior to the release of the Ontario Student Record to any other party. Further, the Municipal Freedom of Information and Protection of Privacy Act requires the consent of the individual prior to the release of personal information which includes the Ontario Student Record.

Please note that fees for copies may be applicable. Where the release of information is for a purpose other than the education of the student, a fee for copies may be charged.

Name of Student	D.O.B.
School	Resides with

The Durham District School Board is authorized to provide the following to the institution/individual named below:

<input type="checkbox"/> Complete Ontario Student Record (OSR)	<input type="checkbox"/> OSR Reports (Please Specify):

Organization/individual to receive information (name, address, telephone)

Name (Please Print)	Title
Organization	Address
City, Province	Postal Code, Phone Number
Authorization	
Name of Parent/Legal Guardian/Adult Student	Signature of Parent/Guardian/Adult Student
Signature of Student (For Students 16 or 17 yrs old)	Date

Please be advised that any information collected by this consent, is collected by the Durham District School Board under the authority and restrictions of the Municipal Freedom of Information and Protection of Privacy Act. The information is supplied on the condition and understanding that it be used solely for the purpose of advocating the interests and wishes of the student to whom the information relates. It shall not be used to service the purpose of any other party. A copy of this consent form will be filed with any record which is disclosed as authorized above. Where this information is to be circulated, or disclosed, in whole or in part, in any form (including both verbal and written form) the recipient (above) shall ensure a copy of this consent including this note of legal condition is also provided. Questions about this collection shall be directed to the principal of the student's school or the Privacy Officer for the Durham District School Board at foi.privacy@ddsb.ca.

Appendix C

Consent to the Collection and/or Release of Personal Information

This form authorizes the collection and/or release of personal information for the purpose outlined. This consent is valid for the current school year and may be cancelled or changed by the authorizer in writing at any time, providing action has not already been taken on the basis of this authorization.

<hr/>	<hr/>
Name of Student (Please Print)	Parent/Guardian/Adult Student (Please Print)
<hr/>	<hr/>
Address	Home Phone
<hr/>	<hr/>
City, Province	Postal Code
<hr/>	<hr/>
School	Date of Birth: (yy/mm/dd)
I hereby consent to the collection and/or release of personal information by:	
<hr/>	<hr/>
Name (Please Print)	Organization/School (Please Print)
<hr/>	<hr/>
Phone	Address
<hr/>	<hr/>
City, Province	Postal Code
To:	
<hr/>	<hr/>
Name (Please Print)	Organization/School (Please Print)
<hr/>	<hr/>
Phone	Address
<hr/>	<hr/>
City, Province	Postal Code
Describe the personal information and the purpose for collecting and/or releasing:	
<hr/>	
<hr/>	
<hr/>	
<hr/>	<hr/>
Parent/Guardian/Adult Student Signature	Student Signature
<hr/>	<hr/>
Date	Witness Signature
<hr/>	<hr/>

Information is collected or released under the authority the Education Act and/or the signed authorization of the individual in accordance with the Municipal Freedom of Information and Protection of Privacy Act and will be used for the purpose of identified above. If you have any questions about the collection of personal information please contact the principal of the School, the Superintendent of Education at [mailing address, phone], or the Privacy Officer at 400 Taunton Road East, Whitby, ON L1R 2K5, foi.privacy@ddsb.ca, 905-666-5500.

Appendix D

Photographs and Recording Consent, Waiver and Release

I hereby grant permission to the Durham District School Board(DDSB) and its agents or representatives to take photographs, videos or audio recordings of me/my child to promote, publicize or explain the DDSB and its activities and functions and for administrative or educational or training purposes as outlined below.

Date	Event and Location (Provide Details)
Who is involved (Name of individual or class)	Describe what is being recorded

Primary Purpose

I further grant to the DDSB and its representatives the right to reproduce, use, exhibit, display, broadcast and distribute and create derivative works of these images and recordings and name in any media now known or later developed. I acknowledge that the DDSB owns all rights to the images and recordings.

I further grant consent under the Municipal Freedom of Information and Protection of Privacy Act to the DDSB to collect, use and disclose my image, voice, likeness and name in the video recordings/photographs for the promoting, publicizing or explaining the DDSB and its activities and for administrative or educational purposes.

Waiver and Release

I hereby waive any right to inspect or approve the use of the images or recordings or of any written copy. I also waive any right to royalties or other compensation arising from or related to the use of the images, recordings, or materials.

I hereby release, and hold harmless the DDSB, its officers, employees or agents from and against any claims, damages or liability arising from or related to the use of the images, recordings or materials.

I have read this document before signing below and I fully understand the contents, meaning and impact of this consent, waiver, and release. This consent, waiver, and release is binding on me, my heirs, executors, administrators and assigns.

I understand that by giving this consent, I am permitting personal information about me or my child to be used as outlined in this form and further understand that if consent were withheld this use would not occur. I have given this consent voluntarily.

Date	School
Name of Student (Please Print)	Student Signature
Parent/Guardian/Adult Student (Please Print)	Parent/Guardian/Adult Student Signature
Witness	Date

Personal information including images and recordings in connection with this form is collected under the authority of the Education Act including s.170, 171, 198, 199, 264 and 265 and in accordance with the Municipal Freedom of Information and Protection of Privacy Act and will be used for promoting, publicizing or explaining the DDSB and its activities and for administrative, educational or training purposes. Personal information may be disclosed to outside service providers for processing and production. If you have any questions about the collection of personal information please contact the principal of the School or the Superintendent of Education at [mailing address, email, phone] or the Privacy Officer at 400 Taunton Road East, Whitby, ON L1R 2K6, foi.privacy@ddsb.ca, 905-666-5500.

Appendix E

CONSENT TO PARTICIPATE IN MEDIA OR PROMOTIONAL ACTIVITIES

Date: _____

Dear Parent/Guardian, Adult Student or Adult Participant:

The Durham District School Board and its schools cooperate with media and other organizations, within reason, to encourage the celebration of school achievements, sharing information about students and staff and their work and to report on newsworthy events. For example, an organization may want to: interview you/your child about a newsworthy event; to film/photograph or record digitally you/your child doing an activity; you/your child's work or accomplishments may be featured or the school may want to enter your child's work in a contest.

We recognize that there are instances where parents may not wish their children to participate in these activities and similarly for students at age of majority and other adults. The notice below provides details regarding the specific activity you/your child are being invited to participate in.

Name of Organization	Purpose
Date	Event and Location (Provide Details)
Who is involved (Name of individual or class) How will it be used? (i.e., newspaper, website, etc.)	Describe what is being recorded

All or portions of the work referred to above will become the property of the organization and may be adapted for other educational or non-educational applications, productions, broadcast, re-broadcast, publication, exhibition, reproduction and/or distribution in various media formats to a number of markets.

CONSENT AND ACKNOWLEDGEMENT

I, being the parent/legal guardian of the student named below or adult student/adult, have read and understand the information provided on this form.

- ☐ I **consent** to my/my child's participation in the activity described above and to the subsequent use as described above.
- ☐ I **do not consent** to my/my child's participation in the activity described above and its subsequent use as described above.

Date	School
Name of Student (Please Print)	Student Signature
Parent/Guardian/Adult Student (Please Print)	Parent/Guardian/Adult Student Signature
Witness	Date

Personal information is collected under the authority of your signed consent and will be used as outlined above. If you have any questions regarding this collection, or the activity, please contact your school principal or the Superintendent of Education at [mailing address, email, phone].

PROCEDURE

PERSONNEL

Privacy Breach Protocol

Adopted under the Privacy Policy

1.0 Objective

This Privacy Breach Protocol (the “Procedure”) has been adopted to allow for a prompt, reasonable and coordinated response should personal information be breached. The Procedure is designed to:

- 1.1.1 provide guidance on all reasonable steps necessary to limit a breach;
- 1.1.2 clarify roles and responsibilities;
- 1.1.3 support effective investigation and containment; and,
- 1.1.4 assist with remediation.

- 1.2 This Procedure is to be interpreted and applied in accordance with the Durham District School Board’s (“DDSB” or “the Board”) commitment to promoting and upholding Indigenous rights and human rights in all of its learning and working environments. This includes anti-colonial, anti-discriminatory and anti-racist approaches and actions to provide services and employment that are safe, welcoming, respectful, inclusive, equitable, accessible and free from discrimination and harassment consistent with the DDSB’s [Human Rights, Anti-Discrimination and Anti-Racism Policy](#), the [Indigenous Education Policy](#), the [Safe and Respectful Workplace and Harassment Prevention Policy](#).

2.0 Definitions

In this Procedure,

- 2.1 “**Personal Information**” or “**PI**” means recorded information about an identifiable individual and includes personal health information. As defined by the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA), this may include, but is not limited to:
- Information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual, Information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
 - Any identifying number, symbol or other particular assigned to the individual,
 - The address, telephone number, fingerprints or blood type of the individual,
 - The personal opinions or views of the individual except if they relate to another individual,

- Correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
- The views or opinions of another individual about the individual, and/or
- The individual's name if it appears with other PI relating to the individual or where the Disclosure of the name would reveal other personal information about the individual.

2.2 **“Personal Health Information” or “PHI”** has the meaning set out in s. 4 of the Personal Health Information Protection Act (PHIPA). Specifically, it is “identifying information” about an individual that:

- Relates to the physical or mental health of the individual,
- Relates to the provision of health care to the individual,
- Is a plan of service under the *Connecting Care Act, 2019, S.O. 2019, c. 5, Sched. 1*;
- Relates to payments or eligibility for health care or eligibility for coverage for health care,
- Relates to the donation of any body part or bodily substance of the individual or that is derived from the testing or examination of any such body part or bodily substance,
- Is the individual's health number, and/or
- Identifies an individual's substitute decision-maker.

PHI also includes identifying information about an individual that is not PHI listed above but that is contained in a record that includes PHI listed above. Information is “identifying” when it identifies an individual or when it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify the individual.

2.3 **“Privacy Breaches”** occur when personal information is compromised; that is, when it is collected, used, disclosed, retained, or destroyed in a manner inconsistent with privacy legislation. Ontario school boards/authorities are governed by the following privacy statutes: MFIPPA and the PHIPA.

Simply put, this means personal information has been accessed or viewed by someone who should not have access to it; or it has been collected without proper authority; or it has been used for purposes other than for which it was collected.

Some privacy breaches may be obvious while others may not be as apparent. Examples of potential privacy breaches may include:

- 2.3.1 lost or misplaced personal information--for example, a misplaced student psychological assessment, report card or USB stick containing student marks, etc.;
- 2.3.2 stolen technologies or equipment that may contain personal information--for example, laptops, data drives, disks, PDA's, etc.;
- 2.3.3 disclosure of personal information to an unauthorized person or group--for example, student reports cards or verification sheets given to the wrong student(s), student marks

emailed to wrong person, personal information posted publicly in error, etc.;

- 2.3.4 deliberate disclosure of personal information to an unauthorized person or group for fraudulent or other purposes—for example, a user ID and password for access to personal information is posted on a social networking site, etc.;
- 2.3.5 information used for a purpose not consistent with the reason the information was collected—for example, disclosure of staff contact list for purpose of sales and solicitation; or,
- 2.3.6 information collected in error—for example collected from a third party, or where there is no authorization for the collection.

2.4 **“Privacy Incident”** means a real or suspected privacy breach.

2.5 **“Service Provider”** mean contracted third parties used to carry out or manage programs or services on behalf of the Board, and for the purposes of privacy breach reporting, includes all contractors that collect, use or disclose personal information on behalf of the Board. For example: school photographers; bus operators; external data warehouse services; or extended daycare providers.

3.0 Response Protocol – Five Steps

The following five steps shall be initiated as soon as a Privacy Breach or Privacy Incident occurs: 1) report and assess, 2) containment, 3) investigate, 4) notify, and 5) closure and documentation.

3.1 Step 1 – REPORT AND ASSESS

3.1.1 Report Breach

If you become aware of a possible breach of Personal Information by: 1) an internal source such as a staff member; or 2) an external source such as a third-party contractor, a parent or a student; **the suspected breach shall be promptly reported to your Principal or Manager.** This shall occur even if the breach is only suspected and not yet confirmed. The following information shall be collected to include in the final documentation in Step 5:

- (a) What happened?
- (b) Where?
- (c) When did the Privacy Incident occur?
- (d) How was the Privacy Incident discovered?
- (e) Was any corrective action taken when the Privacy Incident was discovered?

3.1.2 Assess

The Principal or Manager shall assess the information collected to determine whether to take containment steps and notify the Privacy Officer.

If there is a possibility that PI has been collected, used or disclosed without authorization, the Principal or Manager shall take containments steps, per Step 2 below, and shall promptly notify the Supervising Superintendent and Privacy Officer.

3.2 **Step 2 – CONTAINMENT**

Containment involves taking immediate corrective action to put an end to the unauthorized practice.

For example: recovering the records; shutting down the system; revoking/changing computer access codes; or correcting weaknesses in physical or electronic security. The main goal is to alleviate any consequences for the individual(s) whose PI was involved and for the Board.

3.3 **Step 3 – INVESTIGATE**

Once the privacy incident is contained, the Principal or Manager shall consider how best to investigate, with input from the Supervising Superintendent and/or the Privacy Officer as required.

If assistance from an outside expert or investigator is not required, the Principal or Manager shall gather evidence (documentation and statements) to determine the cause and potential impact of the breach by:

- (a) identifying and analyzing the events that led to the Privacy Breach;
- (b) evaluating if it was an isolated incident or if there is risk of further exposure of information;
- (c) determining who was affected by the breach, e.g. students or employees, and how many individuals were affected;
- (d) evaluating the effect of containment activities;
- (e) evaluating who had access to what Personal Information;
- (f) evaluating if Personal Information was lost or stolen; and,
- (g) evaluating if the Personal Information has been recovered.

3.4 **Step 4 – NOTIFY**

Notification helps to ensure that the affected parties can take remedial action, if necessary, and to support a relationship of trust and confidence.

The Principal or Manager shall consult with the Privacy Officer and the Supervising Superintendent (or the Superintendent of Education / Employee Relations for staff breaches, as appropriate) to determine what notifications are required.

3.4.1 **Factors in assessing notification**

In determining if notification to affected individuals is required, the following factors shall be considered:

- a) *Reasonable Expectations*

The affected individual's reasonable expectation of notification shall be considered.

- b) *Statutory Duties*

If the information at issue is in a personal counselling or similar record the Board may have a statutory duty to notify affected individuals under the PHIPA. There is also notification duty in the *Personal Health Information Protection and Electronic Documents Act* that may be triggered in more rare circumstances.

c) *Risk of Physical Harm*

Does the loss or theft of information place any individual at risk of physical harm, stalking, or harassment?

d) *Risk of Identity Theft*

Is there a risk of identity theft or other fraud? How reasonable is the risk? Identity theft is a concern if the breach includes unencrypted information such as names in conjunction with social insurance numbers, credit card numbers, drivers' license numbers, personal health numbers, debit card numbers with password information, or any other information that can be used for fraud by third parties (e.g., financial). (**Appendix #2**).

e) *Risk of Hurt, Humiliation, or Damage to Reputation*

Could the loss or theft of information lead to hurt, humiliation, or damage to an individual's reputation? This type of harm can occur with the loss or theft of information such as mental health records, medical records, or disciplinary records.

f) *Risk of Loss of Business or Employment Opportunities*

Could the loss or theft of information result in damage to an individual's reputation, affecting his/her business or employment opportunities?

3.4.2 **Whether notification to authorities or organizations is required**

Examples of organizations that may need to be notified include:

- a) police, if theft or other crime is suspected;
- b) insurers;
- c) Information and Privacy Commissioner;
- d) credit card companies and financial institutions;
- e) third party contractors or other parties that may be affected;
- f) other DDSB departments or staff; or,
- g) union or other employee groups.

3.4.3 **Notification Timeline**

Affected individuals shall be notified promptly after the Board determines that their PI has been collected, used, and disclosed without authorization.

Depending on the circumstances, notification may occur in stages. For example, the Board may choose to notify before completing an investigation if a suspected breach is widely known or if a breach is very likely. In doing so, the Principal or Manager should

make clear what the Board knows and does not yet know, and commit to further follow-up.

3.4.4 **Method of Notification**

The method of notification shall be guided by the nature and scope of the breach and in a manner that reasonably ensures that the affected individual will receive it. Direct notification, e.g., by phone, letter, email or in person is preferable and shall be used where the individuals are identified.

Where it is not possible to determine the affected individuals (for example, when a student information system has been breached), posted notices, media releases, website notices or letters to all students or staff shall be considered.

3.4.5 **Who is Responsible for Notification**

Ideally, the individual(s) shall be notified by the department associated with the breach. For example, where the breach is for student information, the Principal of the school shall be responsible for providing notification; where the breach is for staff information, Human Resource Services shall be responsible for providing notification. The Supervising Superintendent or the Superintendent of Education / Employee Relations may be referred to as a contact for questions, as applicable.

3.4.6 **Notification shall include:**

- (a) description of the incident and timing;
- (b) description of the information involved;
- (c) the nature of potential or actual risks or harm;
- (d) what mitigating actions were/are being taken;
- (e) appropriate action for individuals to take in order to protect themselves against harm;
- (f) a contact person for questions or to provide further information; and/or,
- (g) contact information for the Information and Privacy Commissioner of Ontario.

3.5 **Step 5 – CLOSURE AND DOCUMENTATION**

3.5.1 **Prevention plan and corrective action**

Once the breach has been resolved, the Supervising Superintendent or Associate Director, Corporate Services, as the case may be, shall work with the Principal or Manager to develop a prevention plan or take corrective actions, if required, and in doing so shall consult with the Privacy Officer.

The extent of the prevention plan or corrective actions shall be determined by the significance of the breach and whether it was systemic or isolated. These may include: audits, review of policies, procedures, and practices; employee training; or review of service delivery partners. Consideration shall be given to testing and evaluating a prevention plan or corrective actions to determine if they have been implemented correctly, as well as notifying appropriate stakeholders of any changes or preventative

measures that have been implemented.

3.5.2 Privacy Breach Report

The Principal or Manager shall complete a Privacy Breach Report (**Appendix #1**) in consultation with the Privacy Officer and forward a final copy to the Privacy Officer. If litigation is contemplated, the Privacy Officer may direct that the completion of a Privacy Breach Report be deferred.

4.0 Response Protocol – Service Providers

- 4.1 The Board will follow a similar process for responding to breaches and suspected breaches experienced by service providers. The response shall be led by the Privacy Officer or delegate, who shall seek appropriate assurances from the service provider about:
 - 4.1.1 the interim measures taken by the service provider to contain the incident and re-secure data;
 - 4.1.2 the information the service provider will give to the Board so it can meet its notification and other obligations to individuals;
 - 4.1.3 the service provider's plan for communication, which should not create problems or challenges for the Board's own communication plan; and,
 - 4.1.4 the final measures taken by the service provider to prevent a recurrence.
- 4.2 These dealings with service providers may be taken in contemplation of litigation (and subject to litigation privilege).

5.0 Roles and Responsibilities

- 5.1 **All Employees** are responsible for:
 - 5.1.1 being alert to the potential for PI to be compromised, and playing a role in identifying, notifying, and containing a breach;
 - 5.1.2 notifying their supervisor immediately, or, in their absence, the Privacy Officer, upon becoming aware of a breach or suspected breach; and,
 - 5.1.3 where possible, containing the suspected breach by suspending the process or activity that caused the breach to be determined on a case-by-case basis.
- 5.2 **Principals and Managers** are responsible for:
 - 5.2.1 promptly alerting their Supervising Superintendent or Associate Director, Corporate Affairs as the case may be, and the Privacy Officer of a breach or suspected breach, and working with their Supervising Superintendent or supervisor as the case may be to implement the five steps of the response protocol;
 - 5.2.2 informing affected individuals if required, and responding to questions or concerns with input from the Supervising Superintendent and/or Privacy Officer as appropriate;
 - 5.2.3 investigating with or without the assistance of the Privacy Officer and/or outside experts

or providing outside investigators access to information;

5.2.4 for all incidents processed beyond Step 1 in the Response Protocol, completing, and forwarding a Privacy Breach Report to the Privacy Officer (See **Appendix #1**); and

5.2.5 Obtaining advice and guidance from the Privacy Officer as necessary to meet their responsibilities.

5.3 **Supervising Superintendent/Associate Director** is responsible for:

5.3.1 ensuring that all five steps of the response protocol are implemented;

5.3.2 supporting the Principal or Manager in responding to the breach;

5.3.3 responding to questions from the public regarding the breach;

5.3.4 briefing senior management and trustees as necessary and appropriate;

5.3.5 reviewing internal investigation reports and approving required remedial action;

5.3.6 monitoring implementation of remedial action;

5.3.7 ensuring that those whose Personal Information has been compromised are informed as required; and

5.3.8 obtaining advice and guidance from the Privacy Officer as necessary to meet their responsibilities.

5.4 The **Privacy Officer** is responsible for:

5.4.1 providing legal advice and guidance to others with duties under this Procedure;

5.4.2 in consultation with the Associate Director, Corporate Services, retaining and instructing outside experts and investigators as appropriate;

5.4.3 As appropriate, and in consultation with the Associate Director of Corporate Services, reporting the breach to the Board's insurer;

5.4.4 reporting the Privacy Breach to the Information and Privacy Commissioner of Ontario where appropriate, and coordinating with the applicable staff with respect to this reporting as appropriate;

5.4.5 working jointly with the Associate Director, Corporate Affairs, in liaising with service providers who are experiencing privacy incidents;

5.4.6 receiving and reviewing Privacy Breach Reports with a view to maintaining the Board's overall privacy protection program and, if litigation is contemplated, directing that the completion of a Privacy Breach Report be deferred, as appropriate; and

5.4.7 consulting with the Associate Directors on appropriate reporting to the Director of Education and the Administrative Council on containment and mitigation issues in

relation to any Privacy Breach.

6.0 Reference Documents

6.1 Policies

[Privacy Policy](#)

6.2 Procedures

[Privacy Procedure \(Personal\)](#)

[Acceptable and Safe Use Procedure for Computing Technology Safety](#)

[Electronic Monitoring](#)

[Guidelines for E-Mail](#)

[Staff Mobile Phones](#)

[Video Surveillance System](#)

[Technology Approval Process](#)

[Technology Approval Process \(Cloud Services\): Privacy and Security Assessment Guide](#)

6.3 Other Documents

[Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56](#)

[Personal Health Information Protection Act, S.O. 2004, c. 3, Sched. A](#)

[Protection and Electronic Documents Act \(S.C. 2000, c. 5\)](#)

Appendix:

Appendix 1: Privacy Breach Report Template

Appendix 2: Identity Theft Frequently Asked Questions

Effective Date

2012-06-15

Amended

2023-09-19

Appendix #1 - PRIVACY BREACH REPORT

To be completed by the Principal or Senior/Manager and forwarded to the Privacy Officer (foi.privacy@ddsb.ca) at Step 5 of the Privacy Breach Protocol

Step 1 – Report and Assess

- a. When did the Board discover the incident?
- b. Who discovered it?
- c. How?

Step 2 – Containment

- a. What steps did the Board take to contain the incident?
- b. By whom?
- c. When?

Step 3 – Investigation

- a. How many individuals were affected?
 - i. Who? (include names, DDSB job titles (if applicable), whether students, parents, service providers, the public, etc.)
- b. What information was exposed?¹
 - i. How?
- c. What caused the incident?

¹ Note: personal information (PI) is information about an identifiable or potentially identifiable individual and includes personal health information and opinions about the individual. Personal health information (PHI) means information about an individual that pertains to the individual's health, including information about an individual's physical or mental health, receipt of health care services and health number. Please see sections 3.14 and 3.15 of the DDSB Privacy Breach Protocol for more detailed definitions for PI and PHI.

Step 4 – Notify

- a. Did the Board notify any affected individuals?
 - i. Who?
 - ii. When?
- d. Through what means?

Step 5 – Closure

- a. What actions did the Board take to prevent a recurrence?
- e. What actions will the Board take to prevent a recurrence?
 - i. By when?
 - ii. Who is responsible?

REPORT COMPLETED BY _____

DATE _____

Appendix #2

Identity Theft Frequently Asked Questions

For use when government issued ID or credit cards have been breached

What is Identity Theft?

Identity theft occurs when your personal information is used without your knowledge or consent to commit a crime such as fraud or theft. This may occur because identity thieves steal personal information and use it to impersonate you and commit crimes in your name. Identity thieves can manipulate your information and invade your personal and financial life. They can use stolen identity to conduct spending sprees, open a new bank account, divert mail, apply for loans, credit cards and social benefits, rent apartments and even commit more serious crimes.

In addition to names, addresses and phone numbers, identity thieves look for:

- Social insurance numbers;
- Driver's licence numbers;
- Credit card and banking information;
- Bank cards;
- Calling cards;
- Birth certificates;
- Passports.

What to do if Government Issued Documents are Lost or Stolen

If your birth certificate, driver's licence, social insurance card or any other government issued document is lost or stolen, notify the issuing authority right away so the document can be cancelled and a new one issued. You can also access this key contact information by visiting your nearest Ontario Government Information Centre or by phoning 414-326-1234 or toll-free 1-800-267-8097.

You may wish to take additional precautions such as placing a security/fraud alert on your credit bureau file, which flags the file for added security by potential lenders. You may also want to consider periodically obtaining a copy of your credit report and have any fraudulent transactions deleted. For your reference, the following is contact information for the three major credit card reporting agencies:

- Equifax – 1-800-525-6285
- Experian – 1-888-397-3742
- TransUnion – 1-800-680-7289

I've Taken All The Recommended Steps. Now What?

The following measures can help ensure that the identity theft is resolved and does not recur:

- Keep a log of all your phone calls. Write down the name of anyone you talked to, what he or she told you and the date your conversation occurred.
- In complex cases, you may want to follow up in writing with contacts you've made on the telephone or in person.
- Keep all originals of supporting documentation, like police reports and letters to and from companies. Send copies only.
- Keep old files even if you believe the case has been resolved. Errors can reappear on your credit reports or your information can be re-circulated.

Where Can I Get More Information About Identity Theft?

Canadian Consumer Information Gateway - <http://www.consumerinformation.ca/> Safe Canada - http://www.safecanada.ca/identitytheft_e.asp Consumer Identity Theft Kit - <http://cmcweb.ca/eic/site/cmc-cmc.nsf/eng/fe00084.html>

Adapted from the Ontario Ministry of Community and Social Services - http://www.sse.gov.on.ca/mcs/en/Pages/Identity_Theft.aspx

REGULATION

PERSONNEL

Privacy

1.0 Purpose

The Durham District School Board collects personal information as required and authorized by law for the purpose of providing for the education of students and the employment of Board personnel.

The management of the personal information collected for these purposes is in accordance with the provisions of the *Education Act*, *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)* and the *Personal Health Information Protection Act (PHIPA)*.

2.0 Guidelines

The protection of personal information held by the DDSB is guided by the principles contained in the Ontario School Board/Authorities Privacy Standard.

2.1 Accountability and Responsibility

Under MFIPPA, individuals responsible for managing the personal information in their custody and control may designate an individual within their school board authority as an agent to assist with compliance with privacy legislation. The DDSB authorizes the Director of Education or designate for this purpose.

Under PHIPA, individuals responsible for managing the personal health information in their custody and control may designate an individual within their school board authority as an agent to assist with compliance with privacy legislation.

2.2 Specified Purposes

The purpose(s) for which personal information is collected, and individuals shall be notified of the purposes and any other information required by law at or before the time personal information is collected.

2.3 Consent

Personal information is collected for the provision of educational services for students and employment with the Board. The knowledge and in some cases, the consent of an individual is required for the collection, use, retention and disclosure of personal information, except where otherwise permitted by law.

2.4 Limiting Collection

The collection of personal information shall be limited to that which is necessary for its specified purposes in accordance with its statutory duties and responsibilities.

2.5 Limiting Use, Retention and Disclosure

Personal information shall be not used, retained, or disclosed for purposes other than those for which it was collected, except with the consent of the individual or as authorized or required by law. Personal information shall be retained in accordance with the specific purpose of the original consent.

2.6 Accuracy

The DDSB shall ensure that personal information is accurate, complete, and up-to-date in order to fulfill the specified purposes for its collection, use, disclosure, and retention. Employees shall keep the DDSB notified of changes to personal information.

2.7 Safeguards

Personal information shall be secured and protected from unauthorized access, use, disclosure, and inadvertent destruction by adhering to safeguards appropriate to the sensitivity of the information.

2.8 Openness and Transparency

The Director of Education or designate shall make available to the public specific information about its policies and practices relating to the management of personal information.

2.9 Access and Correction

Upon request, the Director of Education or designate shall allow an individual to access his/her personal information and give him/her access to that information in accordance with privacy legislation, subject to any mandatory or discretionary exceptions.

An individual has the right to challenge the accuracy and completeness of the information and request that it be amended as appropriate or to have a letter/statement of disagreement retained on file.

Any individual to whom the disclosure of the personal information has been granted in the year preceding a correction has the right to be notified of the correction/statement.

Upon request, an individual will be advised of any third party service provider requests for his/her personal information in accordance with privacy legislation.

2.10 Compliance

An individual shall have the ability to address or challenge compliance with these principles to the Director of Education or designate.

Appendix:

None

Effective Date

2012-02-21

Amended/Reviewed

**DURHAM DISTRICT SCHOOL BOARD
ADMINISTRATIVE REPORT**

REPORT TO: Governance and Policy Committee **DATE:** September 27, 2023

SUBJECT: Revised Trustee Criminal Reference Checks Policy and Rescission of Regulation **PAGE:** 1 of 3

ORIGIN: Heather Mundy, Superintendent of Equitable Education, People & Culture
Patrick Cotter, General Counsel
Robert Cerjanec, Executive Lead, Strategic Initiatives and External Relations

1.0 Purpose

The purpose of this report is to recommend rescission of the Trustee Criminal Reference Checks Regulation and propose revisions to the Trustee Criminal Reference Checks Policy to consolidate the existing policy and regulation into one document.

2.0 Ignite Learning Strategic Priority/Operational Goals

Leadership – *Identify future leaders, actively develop new leaders and responsively support current leaders.*

- Ensuring all Durham District School Board (DDSB) policies, procedures and regulations are up to date, relevant, and accurately aligned to appropriate legislation, collective agreements, employment contracts and existing policies supports system leaders in operational implementation.

3.0 Background

The DDSB recognizes Indigenous rights are distinct. In the exercise of those rights, Indigenous staff and students shall not be subjected to actions with the aim or effect of depriving these distinct rights.

The DDSB is committed to learning and working environments that are centered around human rights and equity and are safe, welcoming, respectful, equitable, accessible, inclusive and free from discrimination.

It is important to accurately maintain current policies to support Board governance and system operations. Consistent with this objective and in furtherance of the Board's direction to phase out regulations, the Superintendent of People & Culture with responsibility for Criminal Reference Checks has undertaken a review of the policy and regulation and recommends this update.

4.0 Analysis

The table below outlines the policy and regulation recommended for revision and rescission including staff's rationale in bringing forward the recommendation. The current policy and regulation are attached at Appendix A and are referenced in the table below with a hyperlink. The revised policy is included at Appendix B.

Table 1 – Trustee Criminal Reference Check Policy and Regulation

Name	Type	Recommendation	Rationale
Trustee Criminal Reference Checks	Policy	Revise	Created in 2008, and last updated in 2013. Relevant provisions of the regulation have been moved over into the policy and incorporates the two lines that were in the policy. The revision also includes language to require Vulnerable Sector Screening in addition to Criminal Background Checks with clearer instructions for new and returning trustees, and updated data security measures relating to storage and retention.
Trustee Criminal Reference Checks	Regulation	Rescind	Created in 2008 and last updated in 2013. Rescinded in accordance with the Board mandated phase out of regulations, content added to revised policy above.

5.0 Financial Implications

Not applicable.

6.0 Evidence of Impact

Revising outdated and obsolete policies and rescinding regulations will bring clarity to applicable processes for system leaders and staff.

7.0 Communication Plan

Communication regarding the revision of policies will be provided to system leaders as applicable to their role. The website listing of policies, procedures and regulations will be updated.

8.0 Conclusion and/or Recommendations

That the Governance and Policy Committee recommend to the Board of Trustees that the Trustee Criminal Reference Checks Regulation be rescinded and the Policy be revised.

9.0 Appendices

Appendix A: Current Policy and Regulation referenced in Table 1

Appendix B: Revised Trustee Criminal Reference Checks Policy

The report was reviewed and submitted by:



Heather Mundy, Superintendent Equitable Education, of People & Culture



Patrick Cotter, General Counsel



Robert Cerjanec, Executive Lead, Strategic Initiatives and External Relations

PERSONNEL

Trustee Criminal Reference Checks

- 1.0 The Durham District School Board recognizes the importance of providing a safe educational environment for all students and staff in the Board.
- 2.0 Durham District School Board Trustees are required to provide a Criminal Reference Check in accordance with this policy and its accompanying regulation.

Appendix:

None

Effective Date

2008-01-12

Amended/Reviewed

2013-11-21

REGULATION

PERSONNEL

Trustee Criminal Reference Checks

1.0 Guiding Principles

- 1.1 Trustees are leaders in our community.
- 1.2 Trustees interact with children within our school system.
- 1.3 Trustees have a legacy and a responsibility to ensure the safety of students and employees for the present and for the future.

2.0 Administration of the Criminal Background Check

- 2.1 The Criminal Reference Check (CRC) shall consist solely of information regarding outstanding criminal code charges and/or convictions for which a pardon has not been granted.
- 2.2 The Criminal Reference Check will be collected and administered by the Director of Education, acting in his/her capacity as Secretary to the Board.
- 2.3 Trustees who have not served in the immediately prior term shall provide, to the Director of Education, a Criminal Reference Check, not more than six months old (as determined from the date on the CRC document), within two months of being sworn in as a Trustee for the Durham District School Board.
- 2.4 The CRC shall be maintained in a secure location by the Director of Education.
- 2.5 The Director of Education will examine the reference checks to identify any areas of concern regarding risk posed to students, employees, and Board property and equipment in the context of the Trustee's role. Mitigating factors shall include:
 - the length of time since any conviction
 - rehabilitative or other efforts undertaken.
- 2.6 If the Director of Education determines that the content of the CRC poses a risk as noted in 2.5 above, then the Director shall notify the Chair of the Board of the concern. The Chair shall consider the concern and take any action which he/she believes warranted under Durham District School Board By-Law #9.

3.0 Administration of the Annual Offense Declaration

- 3.1 Trustees shall provide a signed annual Offense Declaration to the Director by September 1 of each year in which the Trustee is serving, listing all of the Trustee's charges and/or convictions for offenses under the Criminal Code (Canada) up to the date of the declaration:
 - which are not included in the CRC provided by the Trustee to the Director, and
 - for which a pardon has not been granted.
- 3.2 The Director shall notify the Chair of any Trustees who do not provide an Offense Declaration; the Chair shall investigate and take any action which he/she believes warranted under DDSB By Law – *Trustee Determination and Distribution*.

- 3.3 The Annual Offense Declaration shall be maintained in a secure location by the Director of Education.
- 3.4 The Director of Education will examine the Offense Declaration to identify any areas of concern regarding risk posed to students, employees, and Board property and equipment in the context of the Trustee's role. Mitigating factors shall include:
- the length of time since any conviction
 - rehabilitative or other efforts undertaken
- 3.5 If the Director of Education determines that the content of the Offense Declaration poses a risk as noted in 3.4 above, then the Director shall notify the Chair of the Board of the concern. The Chair shall consider the concern and take any action which he/she believes warranted under Durham District School Board By Law – *Trustee Determination and Distribution*.

4.0 Communication

- 4.1 The requirement to provide a Criminal Reference Check and annual offense declaration shall be placed in the description of the role of the Trustee (DDSB By Law – *Filling Trustees Vacancies on the Board of Education*).
- 4.2 This policy and its accompanying regulation will be placed in the Trustee information package role description.
- 4.3 This policy and regulation will be placed in the information given to persons interested in seeking election for the position of Trustee for the Durham District School Board.

Appendix:

None

Effective Date

2008-01-12

Amended/Reviewed

2013-11-21

POLICY

CORPORATE SERVICES

Trustee Criminal Reference Checks

1.0 Rationale

- 1.1 The Durham District School Board (DDSB) recognizes the importance of providing safe learning and working environments for all students and staff at the Board.
- 1.2 In the course of operational responsibilities, Trustees engage with vulnerable persons, including children and students, who are at a greater risk of being harmed by a person in authority.
- 1.3 Criminal Reference Checks and Vulnerable Sector Checks mitigate risks associated with those working with the vulnerable sector.
- 1.4 Trustees have a responsibility to ensure the safety of students and employees at the Board.

2.0 Policy Objective

- 2.1 The purpose of this policy is to outline the requirement of DDSB Trustees to provide Criminal Reference Checks and Vulnerable Sector Checks.
- 2.2 This policy is to be interpreted and applied in accordance with the District's commitment to promoting and upholding Indigenous rights and human rights in all of its learning and working environments. This includes anti-colonial, anti-discriminatory and anti-racist approaches and actions to provide services and employment that are safe, welcoming, respectful, inclusive, equitable, accessible and free from discrimination and harassment consistent with the DDSB's Indigenous Education Policy, the Human Rights, Anti-Discrimination and Anti-Racism Policy (the "Human Rights Policy"), the Safe and Respectful Workplace and Harassment Prevention Policy and related procedures.

3.0 Definitions

In this policy,

- 3.1 **Vulnerable Persons:** A vulnerable person is defined as a person who, because of their age, disability, or other circumstances, whether temporary or permanent, are in a position of dependence on others, or are otherwise at a greater risk than the general population of being harmed by a person in a position of authority or trust relative to them.

4.0 Policy

- 4.1 DDSB Trustees are required to provide a Criminal Reference Check (CRC) including a Vulnerable Sector Check (VSC) and an Annual Offense Declaration to mitigate risks associated with working with vulnerable persons in the DDSB community.

5.0 Administration of the Criminal Background Check

- 5.1 The Criminal Reference Check shall consist solely of information regarding outstanding criminal code charges and/or convictions for which a pardon has not been granted.
- 5.2 The Criminal Reference Check will be collected and administered by the Director of Education (or designate), acting in their capacity as Secretary to the Board.
- 5.3 Trustees who have not served in the immediately prior term shall provide, to the Director of Education, a Criminal Reference Check including a Vulnerable Sector Check, not more than six months old (as determined from the date on the CRC document), within two months of being sworn in as a Trustee for the Durham District School Board.
- 5.4 The collection, storage, and retention shall be subject to the same procedures applicable to DDSB employee Criminal Reference Checks.
- 5.5 The Director of Education will examine the reference checks to identify any areas of concern regarding risks posed to students, employees, and Board property and equipment in the context of the Trustee's role.
- 5.6 If the Director of Education determines that the content of the CRC poses a risk as noted in 5.5 above, then the Director will implement operational actions to ensure the safety of students, employees, and Board property and equipment respecting confidentiality of all matters pertaining to the collection of CRCs. The Director will bring forward an in camera report if they deem that any concerns from the CRC may impact trustee participation at Board or Committee meetings.

6.0 Administration of the Annual Offense Declaration

- 6.1 Trustees shall provide a signed Annual Offense Declaration to the Director by September 1 of each year in which the Trustee is serving, listing all of the Trustee's charges and/or convictions for offenses under the Criminal Code (Canada) up to the date of the declaration:
 - which are not included in the CRC provided by the Trustee to the director, and
 - for which a pardon has not been granted.
- 6.2 The Director shall notify the Chair of any Trustees who do not provide an Offense Declaration; the Chair shall investigate and take any action deemed warranted under DDSB By-Laws.
- 6.3 The Annual Offense Declaration shall be maintained in a secure location by the Director of Education. The collection, storage, and retention shall be subject to the same procedures applicable to employee Offense Declarations.
- 6.4 The Director of Education will examine the Offense Declaration to identify any areas of concern regarding risk posed to students, employees, and Board property and equipment in the context of the Trustee's role.
- 6.5 If the Director of Education determined that the content of the Offense Declaration poses a risk as noted in 6.4 above, then the Director shall notify the Chair of the Board of the concern. The Chair shall consider the concern and take any action deemed warranted under DDSB By-Laws.
- 6.6 The cost of the Criminal Reference Check shall be reimbursed and the expense shall be claimed and processed in accordance with the Trustee Expense Procedure.

- 6.7 Trustees shall also provide notification, within 48 hours, of any new charges or convictions that have occurred after the submission of the Annual Offense Declaration and Criminal Reference Check

7.0 Communication

- 7.1 The requirement to provide a Criminal Reference Check and annual offense declaration shall be placed in the description of the role of the Trustee (DDSB By-Laws Section 6 – Filling Trustees Vacancies on the Board of Education).
- 7.2 This policy will be placed in the Trustee information package.
- 7.3 This policy will be placed in the information given to persons interested in seeking election for the position of Trustee for the Durham District School Board.

8.0 Evaluation

- 8.1 This policy may be reviewed and updated as may be deemed necessary or appropriate, but it shall be reviewed at least every 5 years.

Appendix:
None

Effective Date:
2008-01-12

Reviewed and Amended:
2013-11-21
2023-09-XX

DURHAM DISTRICT SCHOOL BOARD ADMINISTRATIVE REPORT

REPORT TO: Governance and Policy Committee **DATE:** September 27, 2023

SUBJECT: Timing of Organizational Meeting and Clarification of Other Meeting Dates **PAGE:** 1 of 4

ORIGIN: Robert Cerjanec, Executive Lead, Strategic Initiatives and External Relations
Patrick Cotter, General Counsel

1.0 Purpose

The purpose of this report is to bring forward proposed changes to the Board Meeting schedule and the terms of the Board's Consolidated Bylaws as to the timing of the Organizational Meeting.

2.0 Ignite Learning Strategic Priority/Operational Goals

Leadership – *Identify future leaders, actively develop new leaders and responsively support current leaders.*

- Ensuring all Durham District School Board (DDSB) policies, procedures and regulations are up to date, relevant, and accurately aligned to appropriate legislation, collective agreements, employment contracts and existing policies supports system leaders in operational implementation.

3.0 Background

The DDSB recognizes Indigenous rights are distinct. In the exercise of those rights, Indigenous staff and students shall not be subjected to actions with the aim or effect of depriving these distinct rights.

The DDSB is committed to learning and working environments that are centered around human rights and equity and are safe, welcoming, respectful, equitable, accessible, inclusive and free from discrimination.

It is important to accurately maintain current policies and by-laws to support Board governance and system operations.

4.0 Analysis

Recent amendments to the *Municipal Elections Act, 2006*, backed-up the start of the term of office for Trustees and municipal council members from December 1 (previous) to November 15 (new). This new date needs to be considered when considering the provisions of the Education Act that are tied to the commencement of the term. In this regard, Section 208(4) was also recently amended and now provides, in part, as follows:

- (4) The members shall elect one of themselves to be chair,
- (a) at the first meeting referred to in subsection (2) or (3);

- (b) in each following year, **at the first meeting on or after the anniversary of the date the term of office of the board began**; and
- (c) at the first meeting after a vacancy occurs in the office of chair.

For the DDSB, the first meeting “on or after the anniversary date the term of office of the board began” will be the regular Board meeting scheduled for November 20 (rather than as currently scheduled for December 4). Our Bylaws call for the election of the Chair to be done annually at the Organizational meeting. Therefore, the date of the Organizational Meeting needs to be adjusted.

This requires:

- (i) An amendment to the terms of the Consolidated Bylaws as follows:

3.2.1 ~~In an election year, t~~The Board will hold the Organizational Meeting within seven days after the day on which the term of office of the board commences and then, in each subsequent year, at the first meeting on or after the anniversary date the term of office of the board began at the first meeting in December.

~~3.2.2 In an election year, the Organizational Meeting will be held no later than seven (7) days after the start of the term of the Board. and~~

- (ii) A revision to the current meeting schedule, such that the meetings of November 20 and December 4 be flipped such that November 20 becomes the Organizational Meeting and December 4 becomes the regular board meeting).

We are also proposing the following revisions to the bylaws so that they more closely match the standard meeting schedule and practices of the Board and to align with the required changes to the meeting schedule and by-laws as mentioned above.

3.1.1 An inaugural meeting of the Board shall take place at the first meeting of the Board in ~~November~~ December of each year (the “Organizational Meeting”) during which the Board shall:

- a) Elect the Chair and Vice-Chair of the Board;
- b) Establish and review Committees of the Board;
- c) Appoint members to Committees of the Board;
- d) Elect the Vice-Chair of the Committee of Whole – Standing and appoint the Vice Chair of the Board as the Chair of the Committee of the Whole – Standing;
- e) Appoint members to represent the Board on external organizations; and
- f) Adopt an annual schedule of meetings for Board and Committee of Whole - Standing meetings.

.....

4.2.4 The Committee of the Whole shall also meet regularly on the first (1st) Monday of the month (which shall be referred as “The Committee of Whole – Standing”) except in the summer months of July and August, and in December when a Regular Meeting of the Board will take place. Should the date of such a meeting fall on a statutory, civic, or school holiday, the meeting will be held on the Tuesday of the same week or the Monday of the following week.

.....

5.5.1 Regular Meetings of the Board will be held on the third (3rd) Monday of each month, except in the summer months of July and August, and in November and December where the meeting will take place on the first Monday in December, commencing at 7:00 p.m. or, in any case where that Monday is a statutory holiday or other school holiday, the meeting will be held on the Tuesday of the same week or the Monday of the following week. As may be deemed appropriate by the Chair in consultation with the Director, the Board will convene into Committee of the Whole, closed session, prior to the commencement of the public Board meeting, typically commencing at 6:00 p.m. and again, if necessary, following public session, in which case the meeting shall not extend past 11:00 p.m.

5.0 Recommendations

It is recommended that the Committee adopt two separate resolutions that would come back to the Board as recommendations:

(i) The following amendments to the Consolidated Bylaws:

3.1.1 An inaugural meeting of the Board shall take place at the first meeting of the Board in November ~~December~~ of each year (the “Organizational Meeting”) during which the Board shall:

- a) Elect the Chair and Vice-Chair of the Board;
- b) Establish and review Committees of the Board;
- c) Appoint members to Committees of the Board;
- d) Elect the Vice-Chair of the Committee of Whole – Standing and appoint the Vice Chair of the Board as the Chair of the Committee of the Whole – Standing;
- e) Appoint members to represent the Board on external organizations; and
- f) Adopt an annual schedule of meetings for Board and Committee of Whole - Standing meetings.

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~~3.2.2 In an election year, the Organizational Meeting will be held no later than seven (7) days after the start of the term of the Board. And~~

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the Monday of the following week. As may be deemed appropriate by the Chair in consultation with the Director, the Board will convene into Committee of the Whole, closed session, prior to the commencement of the public Board meeting, typically commencing at 6:00 p.m. and again, if necessary, following public session, in which case the meeting shall not extend past 11:00 p.m.

And that the Board of Trustees consider and adopt these changes at the Board meeting to be held on October 16, 2023.

(ii) A revision to the current meeting schedule, such that the meetings of November 20 and December 4 be flipped such that November 20 becomes the Organizational Meeting and December 4 becomes the regular board meeting).

Report reviewed and submitted by:



Robert Cerjanec, Executive Lead, Strategic Initiatives and External Relations



Patrick Cotter, General Counsel