

DURHAM DISTRICT SCHOOL BOARD

SPECIAL BOARD MEETING

Monday, March 4, 2024

8:00 p.m.

- | | | |
|----|---|--------|
| 1. | <u>Call to Order</u> | PAGE |
| 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>Adoption of Agenda</u> | Verbal |
| 5. | <u>Recommended Actions</u> | |
| | (a) Consideration of Integrity Commissioner Reports
(General Counsel Patrick Cotter) | 1-10 |
| 6. | <u>Adjournment</u> | Verbal |

**DURHAM DISTRICT SCHOOL BOARD
ADMINISTRATIVE REPORT****REPORT TO:** Durham District School Board**DATE:** February 27, 2024**SUBJECT:** Consideration of Integrity Commissioner Reports**PAGE:** 1 of 5**ORIGIN:** Patrick Cotter, General Counsel**1.0 Purpose**

The purpose of this report is to provide trustees with information and context as to the process to be followed by the Board of Trustees in considering a report from the Integrity Commissioner.

2.0 Discussion of Process**2.1 Relevant Code Provisions**

Section 4.6 of the Complaint Protocol within the Board's Code of Conduct provides, in part, as follows:

- (c) Where a Formal Complaint is sustained in whole or in part, the Integrity Commissioner shall report to the Board of Trustees outlining the findings of the investigation. The report shall make recommendations as to sanction with reference to section 218.3 of the *Education Act* together with any relevant decisions of other Boards that the Integrity Commissioner believes may be of assistance to the Board in considering sanction.
- (d) A report following an investigation into a Formal Complaint will be delivered to the Board of Trustees for consideration in accordance with the provisions of sections 218.3 and 207 of the *Education Act*.
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- (h) The Board of Trustees shall consider and make a decision in response to the Integrity Commissioner's report in a timely manner and shall comply with the provisions of section 218.3 of the *Education Act* in considering and making a determination as to whether a breach has occurred and, if so, any sanction.
- (i) The Board of Trustees shall consider the report of the Integrity Commissioner and the Board of Trustees shall make its own assessment and determination of whether there has been a breach of the Code of Conduct and, if so, may accept, reject or amend the Integrity Commissioner's recommendation, if any, as to sanction.

2.2 Determination as to Alleged Breach

So, the Board of Trustees must consider each of the Integrity Commissioner's Reports and based on the contents of each report, make its own determination as to whether there has been a breach (or breaches) of the Code of Conduct and, if it finds a breach or breaches, it must then decide on any sanction.

In accordance with the provisions of the Education Act, the Board of Trustees is to consider the Integrity Commissioner's Reports at a Board meeting and is only entitled to enter into closed session discussions if the "alleged breach involves any of matters described in section 207 (a) to (e)" (per: section 218.3(10)). Similarly, under the Board's Code of Conduct, the report is to be made public subject only to the requirements of section 207.

2.3 Available Sanctions

If there is a finding of breach of the Code of Conduct, the Education Act stipulates that the Board of Trustees may impose one or more of the following sanctions:

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

2.4 Process if there is a Finding of Breach

If there is a finding of a breach, then the Board must provide the trustee with written notice of the finding and of any sanction. The trustee would then have an opportunity to make written submissions to the Board. The window for making written submission is 14 days.

If written submissions are received within the 14-day window, then the Board must convene a second meeting to consider the written submissions and determine whether to confirm or revoke the finding(s) of breach. The determination as to whether to confirm or revoke the original determination of breach must be done in public together with the decision to confirm, vary or revoke a sanction. This second public meeting must be held within 14 days of the receipt of any written submissions. A chart summarizing the process is attached as Appendix B.

3.0 **Integrity Commissioner's Findings as to Breach and Recommended Sanctions**

There are five reports before the Board. Each report is discussed briefly below, but Trustees have been provided with the full reports which are to be reviewed.

Before discussing the reports, a preliminary point: the reports reference old section numbers, because recent amendments bumped down relevant sections of the Code of Conduct (sections 6.44, 6.45 and 6.46 are now numbered 6.49, 6.50 and 6.51). The IC has confirmed, in the attached letter dated February 14, 2024, that the reports and conclusions are not impacted by the changes.

Report dated January 26, 2024, re: IC-27306-1023, concerning conduct of Trustee Oldfield. Compendium, TAB 1.

In reviewing the complaint and the alleged conduct of trustee Oldfield, the Integrity Commissioner ("IC") found that Trustee Oldfield breached the Code of Conduct in making certain social media posts referenced by the IC as posts 1,2,4 and 9 reviewed at pp. 15-25 of the report. The IC found no breach with respect to social media posts referenced as posts 3,5,6,7 and 8 reviewed at pp.15-25 of the report.

As to sanction, the IC has recommended that the Board censure Trustee Oldfield. In doing so, the IC has noted that the IC is unaware that she has ever been criticized for her posts previously and that the posts at issue in this report appear to be a negligent use of social media rather than anything ill-intended. The IC also noted that the Trustee has already begun re-examining how her posts could be interpreted by the public- something she has done unilaterally, and which should be commended.

Report dated January 1, 2024, re IC-27326-1023, concerning conduct of Trustee Cunningham. Compendium, TAB 2.

In reviewing the complaint and the alleged conduct of trustee Cunningham, the IC found that Trustee Cunningham breached the Code of Conduct in making certain social media posts referenced by the IC as posts 1 and 3 (also referenced as the May 17 and June 9 posts) which are reviewed at pp. 14-16 and 17-19 respectively of the report. The IC found no breach with respect to social media post referenced as post 2 (also referenced as the May 20 post).

As to sanction, the IC has recommended that the Board censure Trustee Cunningham. In doing so, the IC has noted that while the posts violate the Code, this is a first offence and likely a negligent use of social media.

Report dated January 19, 2024, re: IC-27108-1023, concerning conduct of Trustee Stone. Compendium TAB 3

In reviewing the complaint and the alleged conduct of trustee Stone, the IC found that Trustee Stone breached the Code of Conduct in making certain social media posts referenced by the IC as posts 3,4 and 5 which are reviewed at pp.6-8 of the report. The IC found no breach with respect to social media posts referenced as posts 1, 3, 6 and 7.

As to sanction, the IC has recommended that the Board censure Trustee Stone and that the Trustee Stone be barred from attending one meeting of the Board.

Report dated January 31, 2024, re: IC-27450-1023, concerning conduct of Trustee Stone. Compendium, TAB 4

In reviewing the complaint and the alleged conduct of trustee Stone, the IC found that Trustee Stone breached the Code of Conduct in making certain social media posts referenced by the IC on pp. 2 and 3 of the report and further breached the Code of Conduct by publicizing the complaint against her.

As to sanction, the IC has recommended that the Board censure Trustee Stone; that trustee Stone be barred from attending one meeting of the Board; and that Trustee Stone be barred from sitting on all committees of the board for an additional three months.

Report dated February 2, 2024, re: IC-27287-1023, concerning conduct of Trustee Stone. Compendium, TAB 5

In reviewing the complaint and the alleged conduct of trustee Stone, the IC found that Trustee Stone breached the Code of Conduct in making a social media post referenced by the IC as a Figure 1 on p.2 of the report.

As to sanction, the IC has recommended that the Board censure Trustee Stone; and that Trustee Stone be barred from attending one meeting of the Board; and that Trustee Stone be barred from sitting on all committees of the board for an additional three months.

4.0 Board Determinations

Based on the foregoing, the Board of Trustees needs to consider each of the five reports and, with respect to each report determine:

1. Whether the Trustee, by virtue of the conduct, referenced in the Integrity Commissioner's report, breached the *Code of Conduct*.
2. If there is a finding of breach, the appropriate sanction. Available sanctions are:
 - a. Censure of the member.
 - b. Barring the member from attending all or part of a meeting of the board or a meeting of a committee of the board.
 - c. Barring the member from sitting on one or more committees of the board, for the period of time specified by the board.

5.0 Conclusion and/or Recommendations

This report is provided for information as the Board considers the reports of the Integrity Commissioner. Trustees should make reference to the following attachments:

6.0 Appendices

Appendix A: Letter from Integrity Commissioner: Various Reports – January and February, 2024

Appendix B: Chart summarizing the process and timeline

Appendix C: Relevant sections of the Education Act

Attachment: Compendium of Integrity Commissioner Reports

Report reviewed and submitted by:



Patrick Cotter, General Counsel



ADR
CHAMBERS

Integrity Commissioner Office
for Durham District School Board

MICHAEL L. MAYNARD
Integrity Commissioner
mmaynard@adr.ca

February 14, 2024

SENT BY EMAIL TO:

DDSB Board of Trustees
c/o Chair Christine Thatcher and Patrick Cotter, General Counsel

Re: Various Reports – January and February 2024

Dear Trustees,

My Office has prepared reports over the past few months for five Complaints received in October 2023, all of which are before you presently. Each these matters deal with social media use. For reference, these are:

- IC-27108-1023¹
- IC-27306-1023
- IC-27326-1023
- IC-27287-1023
- IC-27450-1023

I wish to bring to your attention that in October 2023, the DDSB website contained an older version of the Code of Conduct, and consequently these matters were filed by the Complainants under that older Code. My Office was also operating under the older public version of the Code.

The newest version of the Code adds articles concerning social media use, introducing new sections from 6.44 to 6.48, thereby bumping the former section 6.44 to 6.49, and so on. Inasmuch as the matters before you deal with section 6.44, 6.45, and/or 6.46 (as

¹ This report is not impacted by Code section number changes discussed in this letter.

numbered per the old Code), I wish to be clear that these numbering changes do not impact on the analysis, findings, or recommendations in any of these matters. The substantive text of the applicable sections (under the old numbers) is included in the reports, and the analysis is based on these substantive provisions. My interpretation of these sections (now numbered 6.49, 6.50, and 6.51) has always been that social media use is captured by the Code – old versions and new. My prior reports and communications with the Board have emphasized this, and the Board has always accepted this interpretation. Moreover, no party – Complainant or Respondent – raised the issue during the inquiry process, including on review of the draft reports.

I accordingly raise this issue only to make you aware of the differences in section numbers between the reports before you and the newest version of the Code, which I understand the Board has now made available to the public. There is as such no action required – this is an informational update only.

Yours very truly,

A handwritten signature in black ink, appearing to read 'M. Maynard', with a long, sweeping flourish extending to the right.

Michael L. Maynard
Integrity Commissioner, DDSB

Cc: Ben Drory
Ellen Fry
Jeffrey Shapiro

Timeline	Action
Feb 27, 2024	<p>Public meeting to consider the report of the Integrity Commissioner.</p> <p>Trustees will have two tasks in this meeting:</p> <ul style="list-style-type: none"> a) Make their own assessment, based on the report of Integrity Commissioner, as to whether there has been a breach of the Code of Conduct (i.e. accept or reject, in whole or in part, the findings articulated in the Integrity Commissioner’s Report); b) If the Board determines that there has been a breach (or breaches) of the Code, then Trustees will consider and vote on the sanction to be imposed.
By March 14, 2024 (approx.)	If there is a finding of breach, the trustee is provided with written notice and an opportunity to make submissions in writing as to the decision (s) of the Board.
By March 28, 2024 (approx.)	The Board will reconvene a public meeting to consider any written submissions by the trustee and render a decision to confirm or revoke the decision of February 27th as to breach or breaches and, if necessary, to confirm, vary or revoke any decision as to sanction made on February 27 th .

The relevant provisions of the *Education Act* provide as follows:

- 218.3 (1) A member of a board who has reasonable grounds to believe that a member of the board has breached the board's code of conduct may bring the alleged breach to the attention of the board.
- (2) If an alleged breach is brought to the attention of the board under subsection (1), the board shall make inquiries into the matter and shall, based on the results of the inquiries, determine whether the member has breached the board's code of conduct.
- (3) If the board determines under subsection (2) that the member has breached the board's code of conduct, the board may impose one or more of the following sanctions:
1. Censure of the member.
 2. Barring the member from attending all or part of a meeting of the board or a meeting of a committee of the board.
 3. Barring the member from sitting on one or more committees of the board, for the period of time specified by the board
- (6) If a board determines that a member has breached the board's code of conduct under subsection (2),
- (a) the board shall give the member written notice of the determination and of any sanction imposed by the board;
 - (b) the notice shall inform the member that he or she may make written submissions to the board in respect of the determination or sanction by a date specified in the notice that is at least 14 days after the notice is received by the member; and
 - (c) the board shall consider any submissions made by the member in accordance with clause (b) and shall confirm or revoke the determination within 14 days after the submissions are received.
- (7) If the board revokes a determination under clause (6) (c), any sanction imposed by the board is revoked.
- (8) If the board confirms a determination under clause (6) (c), the board shall, within the time referred to in that clause, confirm, vary or revoke the sanction.
- (9) If a sanction is varied or revoked under subsection (7) or (8), the variation or revocation shall be deemed to be effective as of the date the original determination was made under subsection (2).

- (10) Despite subsection 207 (1) but subject to subsection (11), the part of a meeting of the board during which a breach or alleged breach of the board's code of conduct is considered may be closed to the public when the breach or alleged breach involves any of the matters described in clauses 207 (2) (a) to (e).
- (11) A board shall do the following things by resolution at a meeting of the board, and the vote on the resolution shall be open to the public:
- 1) Make a determination under subsection (2) that a member has breached the board's code of conduct.
 - 2) Impose a sanction under subsection (3).
 - 3) Confirm or revoke a determination under clause (6) (c).
 - 4) Confirm, vary or revoke a sanction under subsection (8). 2009, c. 25, s. 25.
- (12) A member who is alleged to have breached the board's code of conduct shall not vote on a resolution to do any of the things described in paragraphs 1 to 4 of subsection (11).
- (13) The passage of a resolution to do any of the things described in paragraphs 1 to 4 of subsection (11) shall be recorded in the minutes of the meeting.



DURHAM DISTRICT SCHOOL BOARD

Compendium of Integrity Commissioner Reports

SPECIAL BOARD MEETING

Monday, March 4, 2024

8:00 p.m.



ADR
CHAMBERS

Report 1
Integrity Commissioner Office
for Durham District School Board

MICHAEL L. MAYNARD

Integrity Commissioner
Durham District School Board

E-mail: mmaynard@adr.ca

JEFFREY SHAPIRO

Investigator
Office of the Integrity Commissioner

E-mail: jshapiro@adr.ca

January 26, 2024

SENT BY EMAIL TO:

Complainant

And To:

Trustee Oldfield

And To:

DDSB Board of Trustees

c/o Chair Christine Thatcher and Patrick Cotter (General Counsel)

Re: DDSB Code of Conduct Investigation Report (the "Report")

File No. IC-27306-1023

INTRODUCTION

This is our Report respecting a complaint ("Complaint") under the Durham District School Board's ("DDSB" or "Board") Trustee Code of Conduct ("Code") concerning the conduct of Trustee Deb Oldfield ("Trustee Oldfield", the "Trustee" or the "Respondent"), and specifically her activity on social media.

This investigation was conducted by Jeffrey Shapiro ("Mr. Shapiro" or the Investigator") pursuant to a written delegation of powers dated November 10, 2023 by Michael L. Maynard, the Integrity Commissioner ("IC") for the Board. The

delegation was for the Investigator to inquire into, investigate and prepare a report, subject to the IC's review and approval.¹ The Report follows the terms of the IC's January 18, 2021 appointment as the IC for the Board and the Board's Complaint Protocol ("Protocol")².

The Complaint was filed with the Office of the Integrity Commissioner ("Office") on October 17, 2023, with supporting evidence submitted on October 18, 2023. We have determined that this matter is within our jurisdiction and mandate, and is not frivolous, vexatious, or made in bad faith.

After reviewing the matter, we find that some of Trustee Oldfield's social media activity did violate the Code for the reasons set forth below.

Inquiry Process

We followed a process that ensured procedural fairness to all Parties. That process included:

- Reviewing written submissions of the Parties (i.e., the Complaint, Response and Reply) and supporting materials, including underlying or linked content, and facilitating the exchange of those submissions between the Parties;
- Reviewing the relevant portions of the Code, applicable legislation, and caselaw;
- Providing an opportunity for one-on-one interviews to all Parties;
- Providing an advance draft of this report to the Respondent, who was afforded an opportunity to provide comments thereon;³
- Providing the Final Report to all Parties and the Board.

As with all matters before the Integrity Commissioner, the civil "balance of probabilities" standard of proof was applicable to this matter.

¹ See section 223.3(3) of the *Municipal Act*, 2001.

² DDSB's Complaint Protocol is an Appendix to the Code of Conduct, i.e. "*Appendix 2 – Complaints Protocol – Integrity Commissioner.*"

³ This Report was provided to the Parties slightly beyond the preferred time-frame under the Complaint Protocol due to year-end holidays and an optional draft review period granted by the Integrity Commissioner.

THE COMPLAINT

The Complaint alleges that nine of Trustee Oldfield’s social media “posts” or “tweets” on X (previously known as Twitter) violated the Code. In the Complainant’s words, “Deb Oldfield has repeatedly posted one-sided matters to her trustee social media,” which are:

- “One sided religious posts [that] I find highly offensive [e.g.] “your religion has no place in civil society”;
- “Name calling examples: homophobic, hateful, white supremacy, transphobic, misogynistic.”
- “Accusing parents of spreading hate to their children”; and
- “Targeting parents and accusing them of attacking the transgender community.”

The Impugned Tweets

For initial context, all the tweets generally concern gender identity issues⁴, mostly in schools. In listing the posts immediately below, I have attempted to group them into related topics, although many have multiple aspects to them.⁵

Christian/Religious Posts

1. **The June 1, 2023 Post.** This political cartoon pictures Jesus Christ holding a rainbow flag saying, “I’ll forgive you”, as he walks past an apparently Christian protester who is waving a bible and holding or standing by three signs: “Repent or Burn!”, “Sinner turn Back!”, and “What would Jesus Do?”
2. **The June 10, 2023 Post.** This post contains a link to a globalnews.ca video dated June 8, 2023. The Trustee commented:

“People yelling & making homophobic comments @ Board meetings aren’t protecting kids they’re hurting all kids, those that are targets of hate & those that become a new generation of haters. If this is what your religion teaches then your religion has no place in civil society.” [Emphasis added.]

⁴ This Report will refer to “gender identity issues” or “Pride” interchangeably. Those terms are intended to be understood broadly to refer to the “Pride” and/or “2SLGBTQIA+” communities, and related topics of gender, sexual identity, orientation, and expression, and equity and inclusion.

⁵ The tweets were posted in May and June of 2023. All were up when the Complaint were filed, and two have since been removed.

3. **The May 24, 2023 Post.** This is a retweet of Rev. Jeff Doucette dated May 24, 2023, which states *“I am ashamed of parents mad that @DDSBSchools will go virtual with next meetings due to homophobic/transphobic hatred by so called adults. I am more worried about them passing on their hatred to their children than schools teaching love and tolerance. I stand with @PFLAGDurham”*, and it contains an image *“Hate is not holy”*, spelled with a Christian Cross in rainbow colors as the “T” in with word hate.

Policy of Controversial Books

4. **The May 28, 2023 Post.**⁶ This is a retweet of a May 28 post by PFLAG Canada Durham (“PFLAG”), which is essentially a political cartoon. It contains books as background, with the message on it: *““What do I do if I don’t like a book at the library?” and then smaller words, “A handy step-by-step guide.”* Below the picture are the words *“Step 1: Check out a different book.”*

Conflict of Interest

5. **The May 16, 2023 Post.** This is a post of a “Joint Statement Condemning Escalating Incident of Hate” issued by District 13 OSSTF and Durham ETFO, which are Teachers’ unions. The letter condemns “what transpired at the May 15th Board Meeting...” It states that harm was inflicted on members of the community, and urges the DDSB to shut down the attacks and stand against homophobia, transphobia and anti-Black racism.

Protests and Counter Protests not directly involving the DDSB

6. **The June 3, 2023 Post.**⁷ The Respondent's tweet states: *“This is outside a Drag Queen story time today. White hoods replaced with white balaclava type things, still white supremacy, misogyny & homophobia. Yes hide your faces, you should be ashamed,”* and includes a retweet shows a picture with people outside a building, one holding a sign, and a few people that appear to be in balaclava head coverings. The retweet is captioned *“This week @CUPEOntario delegates votes to develop “anti-hate fly squads” to protect all at public places where anti-2SLGBTQL+ groups are gathering. To combat this [arrow to the picture]”*
7. **The [Unknown Date] Post.**⁸ This is a retweet with comments and three

⁶ The screen shot provided with the Complaint contained a second post on the bottom. I understand the Complaint to concern the one I cited.

⁷ The Complaint also supplied a second screen capture of the video.

⁸ The screen capture provided by the Complainant contained a second post on the bottom. I understand the Complaint to be about the one I cited.

videos of Emily Quail about a counter protest. Among other comments are, *'There is really no acceptable place for this. Where would you like the fascists to rally?'* [Although not apparent from the tweet, this event appears to take place in Ottawa.]

Public Comment at the May 15, 2023 DDSB Board Meeting

8. **The June 6, 2023 Post.** The tweet states *"Great job by Student Trustee Cameron in this article"* with a link to a Durham Region News article, and a partial quote: *"'I feel like we're going back in time' The LGBTQ policies of Durham District..."* [The words are cut off and link not clear, but I located the article and video, which I discuss below.]
9. **The May 19, 2023 Post.** The tweet states *"Myself and the majority of DDSB Trustees will continue to fight back against hate. [Hashtags omitted]"*, and links to a video by a commentator that criticizes speakers at the meeting and concludes, *"When they say heinous and evil things, we need to drag them into the light."*

RESPONSE

Trustee Oldfield provided a five page Response to our Office by email (addressed to the IC) on October 27, 2023. She makes several points which I summarize:

1. There are not really "sides" as a DDSB Trustee is obligated to uphold the DDSB's Human Rights Policy, the Education Act, including sections 169.1(1)(a) and (a.1-2) and section 218.1, and the Ontario Human Rights Code, which includes preventing bullying. Thus, *"as Trustees we should be striving to ensure that everyone's human rights are respected and protected and this does include members, and allies, of the 2SLGBTQIA+ community. There may be parents and/or members of the community that disagree with this but that doesn't change a trustee's obligation."*
2. The posts submitted with the Complaint are retweets from the United Church of Canada and PFLAG intending to counter the rise over the past several months of "offensive, faith-based signs, comments, questions and violent at actions at schools, school boards and other areas within our society." One post is a retweet of a Global News video covering "the violent incident that took place at the York Catholic District School Board and a link to the video is below".
3. As for the accusation of "name calling", etc., one of the retweets is of

OSBCU President Laura Walton's tweet of the video protesters outside the Pickering Public Library, protesting Drag Queen Story Time. The posts included a link to the video of the event (and the response included a more fulsome video and a link to Durham Region News link). The Response concludes "Calling out behaviour that is homophobic, transphobic etc., isn't name calling, it's a description of the behaviour."

4. As for the accusation of "accusing parents of spreading hate to their children...", the Respondent notes that the retweet by Student Trustee Ben Cameron was in response to the May 15, 2023 DDSB Board Meeting which ended in the public gallery being cleared. The Respondent states, *"I agree with the statement of Director [of Education] Williams-Taylor in the article that the comments made at the meeting by attendees were "homophobic, transphobic and hateful" and other comments and behaviors were intimidating and harmful by tone or content..."* Another tweet is a repost of a commentator's video in which the Respondent says she will continue to fight back against hate in response to questions asked at a school board. There's also retweeted videos of a parent, Emily Quail, regarding the behaviour parents are seeing at protests.

The Response's paragraphs 5 to 9 are citations to various sections of the Code at issue, with brief argument why she has not violated each one. She also notes that section 6.3 must be read in conjunction with obligations under 6.42 of the Code, which means *"ensuring that DDSB spaces are safe and inclusive spaces for all students, staff and the community, including members of the 2SLGBTQIA+ community. Trustees are publicly elected, and what they say (or do not say) publicly, has an impact on the perception not only of themselves but also the School Board..."*

The Response notes, in summary, that *"there are people who may be unhappy with legislation, Board Policies and/or the Provincial curriculum along with the fact that the Board has taken a firm position on ensuring it is meeting its obligations under the relevant policies of legislation. This however does not make it acceptable to make statements that are homophobic, transphobic, or any other comments that are considered hate speech, nor...to behave aggressively..."*

Against that backdrop, and even considering her concern that the Complaint may be an attempt to intimidate or influence or position on such matters in the future, she will nevertheless continue to meet her obligations set out in the legislation while keeping the Code of Conduct. She does note however that, *"I do believe that as Trustees there is value in reviewing how we communicate with students, parents, staff and communities, and that includes social media. Communicating effectively over social media, especially during such a tumultuous time, can be challenging and often the intent of the*

author is not always perceived as intended."

Thus, she reviewed all the social media with an eye to (1) compliance with the Code, etc., and (2) whether there is any potential for any of them to be misconstrued. She believes her social media posts are compliant with the relevant Code, etc., but removed the tweet of June 10, 2023, "feeling that someone reading the tweet, without the context of the Global News video contained within the tweet, may be left with the wrong interpretation of the tweet".

REPLY

The Complainant provided a one-page Reply to our Office on November 8, 2023. It is divided into five numbered sections corresponding to the second half of the Response (numbered points 5-9) where the Respondent had applied the relevant Code sections. To paraphrase, the Reply submits:

1. Regarding section 6.3, the Trustee may be committed to upholding relevant legislation and promoting inclusivity for students, but submits her specific posts do not align with those principles.
2. Regarding section 6.4, regardless of whether she and the other trustees have shown professionalism in challenging circumstances, the issue is whether she has done so in these social media posts.
3. Regarding section 6.5, the posts were not "issue based" but personal and/or personally demeaning.
4. Regarding section 6.9, which requires avoiding improper use of influence, both in intention and perception, the Trustee's own website suggests a possible conflict of interest with the unions.
5. Regarding section 6.44, while the Trustee submits her posts adheres to the relevant legislation and Board policies, *"the crux of my complaint is whether her social media posts may have conveyed offensive or disrespectful messages, which could be perceived as harassment or discrimination"* when communicating with members of the public including via social media.

INTERVIEWS

Both Parties were offered the opportunity to, and did, participate in an interview. I have summarized some of their more overarching comments immediately below,

and then incorporated more specific comments when discussing each post.

Interview with the Complainant on December 12, 2023

The Complainant is one of the founders of “DDSB Concerned Parents”. She considers herself to be accepting of and a supporter of the Pride community. In fact, she submits members of her organization and close members of her own family are part of that community. Thus, her concern with the current state of the Pride movement, including as implemented at the DDSB, and reflected in the impugned tweets, is that Pride is no longer about acceptance and inclusivity, but about politics and policies and that there is too much focus on it. She believes many in the 2SLGBTQIA+ community are actually scared of how it is being implemented. She sees the old Pride flag as being about fighting for acceptance – a battle which she supports and believes is largely won - while the new flag has become about the loss of rights of parents, and a culture in which it is now unacceptable to ask questions, and the loss of rights of everybody else.

At the DDSB in particular, she is concerned about:

1. The age appropriateness at which certain Pride-related issues are being taught. She understands that *gender ideology* is not to be taught in detail until grade 8, but asserts it is being taught at a younger age.
2. Parents are not being involved in material that is being approved.
3. There are extremists on both sides, and a middle ground is being lost.

As for the posts, one of her most overriding concerns is that regardless of the intent of the Trustee’s posts, these posts ultimately teach children that the broader community hates them, when in fact that is not the case. While she acknowledged that there are those that do not “celebrate” Pride because they “hate” *trans* or *queerness* more broadly speaking, the posts do not leave room for the whole host of reasons why many people, ranging from neutral to strong supporters, do not celebrate Pride in certain ways such as flying the flag at schools.

The Complainant supplied a police report and DDSB’s official video recording of the May 15, 2023 School Board meeting. She also provided (1) a PowerPoint that her group presented to the DDSB, although I’m not clear to whom, and (2) a psychological study.⁹

⁹ I have not relied on the PowerPoint or Study as the issue before me is the publicly posted tweets.

Interview with the Respondent on December 13, 2023

The Respondent believes that her Response addressed the particular tweets. She stressed that as a Trustee she must be concerned with the effect of the public's comments on staff, as many of the comments that have been made in the various events, such as the board meetings, have left staff frightened even if there were no actual arrests. She the DDSB Concerned Parents and other groups having "an undertone" typical of the *alt right*, with people yelling "trans-people are pedophiles". She noted that "what you permit you promote".

She expressed that there is some inherent uniqueness in teaching about and creating a safe environment on gender equity issues, such that it's difficult to have pictures that one could have with other groups. Thus, she believed that symbols like the flag become particularly important to show the group that they are respected. Conversely, not having the flag sends the opposite message.

She lamented the fact that people "can't have discourse anymore," but noted that since the May 15 meeting, conversations are happening, and things seem to be improving. For example, the board meetings are open again. She understands that the process has been frustrating for parents, and at times for the Board. She sees the importance of Board meetings being open as it is an opportunity for parents to be heard. She noted that she personally participated in a conversation with a religious group that sees transgenderism as a mental issue and felt that despite having very different perspectives on the subject, it was a good conversation that produced some productive results, such as what and how things were being taught.

She notes that an underlying challenge is that often parents' disagreement is with provincial policy rather than the DDSB's policy.

CITED CODE SECTIONS

The Complainant alleged that the Respondent contravened sections 6.3, 6.4, 6.5, 6.8, 6.11, and 6.44 of the Code of Conduct. The Respondent cited Code sections 6.42 and DDSB's Human Rights Policy, the Education Act including section 169.1 (1)(a), (a.1) and (a.2) and section 218.1 of the Act as well as the Ontario Human Rights Code. The cited Code sections, and a portion of Section 5.0, read as follows:

5.0 Definitions...

Discrimination means discriminatory behaviour as defined by the DDSB

Workplace Violence and Harassment Prevention policies and the Ontario Human Rights Code. (Emphasis added).

Integrity and Dignity of Office - Principles

- 6.3 *Trustees shall discharge their duties, as set out in the Education Act, loyally, faithfully, impartially and in a manner that will inspire public confidence in the abilities and integrity of the Board.*
- 6.4 *Trustees, as leaders of the Board, must uphold the dignity of the office and conduct themselves in a professional manner at all times, and especially when attending Board events or while on Board property.*
- 6.5 *Trustees shall ensure that their comments are issue-based and not personal, demeaning or disparaging with regard to any person, including Board staff or fellow Board members.*
- 6.8 *Trustees shall serve and be seen to serve in a constructive, respectful, conscientious and diligent manner.*
- 6.9 *Trustees shall be committed to performing their functions with integrity and shall avoid the improper use of the influence of their office, and conflicts of interest, both apparent and real.*
- 6.11 *Trustees shall seek to serve the public interest by upholding both the letter and the spirit of the laws of the Federal Parliament and Ontario Legislature, and the Bylaws and policies of the Board.*

Discreditable Conduct

- 6.42 *Trustees shall respect their role and the distinct role and responsibility of staff in accordance with the provisions of the Education Act, the Board's Consolidated Bylaws, and OPSBA's Good Governance Guide, as amended from time to time.*
- 6.44 *All Trustees have a duty to treat members of the public, one another, and staff members respectfully and free from discrimination and harassment. This applies to all forms of written and oral communications, including via social media.*

EDUCATION ACT

The following sections of the *Education Act* were cited:

Board responsibility for student achievement and effective stewardship of resources

169.1 (1) *Every board shall,*

(a) promote student achievement and well-being;

(a.1) promote a positive school climate that is inclusive and accepting of all pupils, including pupils of any race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability;

(a.2) promote the prevention of bullying;

Duties of board members

218.1 *A member of a board shall,*

(a) carry out his or her responsibilities in a manner that assists the board in fulfilling its duties under this Act, the regulations and the guidelines issued under this Act, including but not limited to the board's duties under section 169.1; [...]

(e) uphold the implementation of any board resolution after it is passed by the board; [...]

(g) maintain focus on student achievement and well-being; and

(h) comply with the board's code of conduct.

ONTARIO HUMAN RIGHTS CODE

The following section of Ontario's *Human Rights Code* is relevant to this matter:

Services

1 *Every person has a right to equal treatment with respect to services, goods and facilities, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status,*

family status or disability.

BACKGROUND HISTORY AND INTERPRETIVE PRINCIPLES

Over the past several years this office has received, investigated and issued reports concerning DDSB Board members and their use of social media, particularly concerning gender identity issues. In the course of those reports¹⁰, the DDSB's Integrity Commissioner, Michael L. Maynard, and Investigators working with him, have identified principles that apply to this matter. Those are:

- “Political speech” by elected municipal politicians enjoys significant protection, even where it could generate material discomfort or unease among the citizenry; but there are significant legislative differences between municipal councillors and school board trustees. Unlike politicians, a Trustee’s governance role is not foundationally about “giving voice” to the opinions of themselves or others, or to argue for their personal political viewpoints – rather, it is to help the local education system adapt and transform effectively to changing needs and shifting challenges.
- Trustees are simply more limited than councillors in their “freedom” to speak. To the extent a Trustee’s speech might harm members of the local community, it may run counter to their overarching obligation of advancing public education equitably and can be contrary to the *Code of Conduct*.

Over the past year, the Canadian Supreme Court and Ontario Courts have also grappled with a number of defamation cases concerning the propriety of social media posts on contentious topics which also provide useful principles, even where the legal context is different. For instance, the Ontario Superior Court in *DeLuca v. Foodbenders*¹¹ introduction is a good starting point consider social media posts, even if did not dealing with School Boards:

“[1] There are many social and political issues that people feel passionately about. Public discourse about such issues is important.

[2] As noted by [the Ontario Court of Appeal] “[F]air disagreements over policies and principles can be undertaken, indeed ought to be taken, through responsible discourse. Whatever disagreements there may be... Views can be exchanged and debated without the need for personal attacks.

¹⁰ See, for example, the Crawford Report dated June 6, 2022 and the Stone Reports dated January 23, 2023, May 26, 2023, and October 5, 2023.

¹¹ *DeLuca v. Foodbenders*, 2023 ONSC 6465 (“DeLuca”).

[3] This case illustrates what can happen when a person's passionate views and their discourse about social or political issues cross the line and become defamatory attacks against an individual."

Thus, while a Trustee's social media obligations under the Code are a higher standard than "defamation law", the principals of defamation are a useful backdrop to help analyze some of the tweets in this matter. At a minimum, defamatory speech is not respectful.

DeLuca explained¹² that a court must first consider if words are defamatory in the sense of lowering a person's reputation, refer to the person, and are published to more than one person. The circumstances must be considered.

However, even if words are defamatory, they may be permitted if considered "fair comment". Fair comment are words (1) about a matter of public interest, (2) comments or opinions and not statement of fact, although facts may be referenced, (3) based upon true facts, and (4) objectively fair in the sense that any person could honestly express the comments or opinions based on the proved facts. However, words are not "fair comment" if the speaker intended malice or were so extreme that they exceed the bounds of what the fair comment defence is designed for.¹³

Citing the Supreme Court, *Deluca* explained that the comments must "explicitly or implicitly indicate, at least in general terms, what are the facts on which the comment is being made." Thus, a "reader should be able to recognize the facts so that they can then "make up their own minds" about the comment being made. Further, the foundation for underlying facts must actually be true; if they are not, then the defence fails."¹⁴

In *Rainbow Alliance Dryden et al. v. Webster*¹⁵, issued December 14, 2023, the Superior Court addressed similar issues to those involved in this matter, albeit dealing with defamation between private citizens. The Defendant posted comments against the Plaintiffs who were involved in a drag story time performance, including an implication that they were "groomers". The Plaintiffs sued for defamation submitting those comments were "not public interest speech, but rather a hateful and defamatory attack that was designed to provoke hostility against an identifiably vulnerable group that is protected under [s.15](#) of

¹² *DeLuca*, paras 39-40, 64-69.

¹³ *DeLuca*, paras 64-69, 82-84. Malice generally means ill will or spite. It can be established through speaking dishonestly or with reckless disregard for the truth.

¹⁴ *DeLuca*, paras 64-69, 82-84

¹⁵ *Rainbow Alliance Dryden et al. v. Webster*, [2023 ONSC 7050](#) (CanLII).

the [Canadian Charter of Rights and Freedoms](#)". The Defendant requested the lawsuit be dismissed as being "strategic litigation against public participation" ("SLAPP").¹⁶

The Court denied the dismissal request and allowed the matter to proceed to determine if the Defendant's posts were defamatory. The Court noted that an expression may be defamatory for purposes of tort law, yet still be a matter of public interest for the purposes of the SLAPP defence¹⁷. The Court found that the impugned posts did not relate to the propriety of the CBC journalist report and Drag Story Time events, but the implications that "grooming is the reason the drag performers "need" to perform for children." The Court found the "term "groomer" refers to someone who manipulatively develops a relationship...with a child to exploit and abuse them. It is a slur that is used to allege that drag performers sexualize children and aim to recruit them into the 2SLGBTQI".¹⁸ The court found that "perpetuating such shared types and myths about members of the 2SLGBTQI community is not public interest speech."

Importantly, the Court placed a limit to its ruling, which is very relevant here:

[48] Had Webster merely pointed to the CBC article and questioned whether the taxpayer funded CBC should be promoting drag storytime events, or expressed his opinion that it should not, I would be inclined to find that this constituted public interest expression. Similarly, if the post merely questioned the propriety of drag storytime for children, or expressed his opinion that drag storytime is not appropriate for children, I may have been inclined to find that the matter was social commentary and public interest speech. However, the Defendant's comments went well beyond that, perpetuating hurtful myths and stereotypes about vulnerable members in our society. Webster's argument that he was accusing the CBC of grooming has no merit based on a plain reading of the post. I agree with the Plaintiffs that the post does not represent speech that s. 137.1 intended to protect.¹⁹ (Emphasis added.)

ANALYSIS

Did Trustee Oldfield Contravene the Code?

I will first address the individual posts and then provide some general comments.

¹⁶ SLAPP is codified as s. 137.1 of the *Courts of Justice Act*.

¹⁷ *Rainbow Alliance*, [2023 ONSC 7050](#) (CanLII), at [para 42](#).

¹⁸ *Rainbow Alliance*, [2023 ONSC 7050](#) (CanLII), at [para 47](#).

¹⁹ *Rainbow Alliance*, [2023 ONSC 7050](#) (CanLII), at [para 48](#).

Christian/Religious Tweets (Three Tweets)

1. **The June 1, 2023 Post.** This post is a retweet from PFLAG Canada Durham, which contains a political cartoon. It shows Jesus holding a rainbow flag saying “I’ll forgive you”, as he walks past an apparently Christian protester that is waving a bible, and holding or standing by three signs: “Repent or Burn!”, “Sinner turn Back!”, and “What would Jesus Do?”. In the middle of the two is a sign “Pride Month Parade” with arrows pointing in the direction that Jesus is walking – i.e. implying Jesus is joining the Pride parade.

The Complainant asserts that although she is not personally religious, she finds the post “disgusting”. The post leaves the false impression that because people believe in a god that they mean harm to the Pride community, despite that most people can still have a belief system and accept other people. The post is hypocritical because it seems to imply that one belief system can be plastered all over the schools but yet religious ideas and perspectives cannot be talked about.

The Respondent explained that she did not intend any offence with the post. To the contrary, she intended it to express that religion is about forgiveness and kindness, and that it should be used that way, rather than how are people are using it. She notes that “even the Pope accepts that people are gay”, and people in the LGBTQ+ community are religious such as Muslim and Christian.

Analysis: I agree with the Complainant that the post is offensive. While I accept the Respondent’s intention in such a post, I find the post to be reckless and offensive against a protected class under both federal and provincial Human Rights legislation. It is reckless because the very nature of the post creates near certainty of being interpreted as offensive, for several reasons. The post comes off as a “cheeky” rebuke of at least some of the Christian community as if to say some Christian beliefs on gender issues are absurd and/or mistaken. In fact, her explanation implies that – “You Christians have mistaken your own deity,” in a way that imposes one interpretation of Christian values onto another.

It’s also reckless to use any religion’s god (or any religious symbol) as a political cartoon, with one’s own ideas attributed to that religion’s god, and assuming that any underlying message whether correct or not will be properly interpreted.

To take this point from a different angle, why was religion invoked at all? The Trustee’s relevant concern is mostly the tone and the tactics that are being used against the Pride community by some. Certainly, there’s plenty of room to address specific examples and issue-based explanation of why she thinks that they’re

wrong without a sweeping cheeky cartoon against a religious community that has a very diverse set of beliefs.

As this post is a re-tweet, I note the difference between a Trustee's role and that of members of the public as explained in the interpretive principles above. For example, individuals and special interest advocacy groups are not bound by the Code and entitled to engage in a wider breadth of political speech. However, a different standard applies to a Trustee. It's useful to place oneself in the shoes of a parent seeking to raise their children with religious views, and ask, "Would I feel comfortable sending my children to DDSB after seeing a Trustee issue such a post?" I find it quite obvious that one would have significant hesitation.

2. **The June 10, 2023 Post.** This post contains a link to a globalnews.ca video dated June 8, 2023, on which the Trustee commented:

"People yelling & making homophobic comments @ Board meetings aren't protecting kids they're hurting all kids, those that are targets of hate & those that become a new generation of haters. If this is what your religion teaches then your religion has no place in civil society." [Emphasis added.]

The Respondent has since removed this post, nevertheless, a slightly longer version of the video is available online.²⁰ The video concerns a series of events following the York Region Catholic District School Board (YRCDSB) decision to not fly the Pride flag. In protest at some schools, students held walkouts and peacefully demonstrated. While it is not clear who organized protests, the article quotes PFLAG, *"Following the board's decision to not fly the Pride flag, queer advocacy organization PFLAG deemed the [YRCDSB] unsafe for 2SGBTQ+ students."*

The article reports that in response to the protest, a *"disruptive group of students tore through Pride posters, shouted homophobic slurs, danced on Pride flags and threw Pride bracelets and random objects at people"*. A student was quoted: *"some kid threw something at my head. And then in response to that everyone started cheering."*

A YCDSB spokesman advised that school staff quickly assisted the student and contacted the police and is gathering video footage that could assist in an investigation noting *"Such actions violate the YCDSB Code of Conduct and will not be tolerated. The YCDSB believes that every person is a child of God who is worthy of dignity and respect."*

The Complainant made similar comments as about the above "your religion has no

²⁰ <https://globalnews.ca/news/9756432/york-region-catholic-walkout-pride-flag-violence/>

place in a civil society” post. She is also concerned how the video ignores that there are many valid reasons that a school would choose not to fly the Pride flag, which have nothing to do with opposition to gender identify issues – such as a policy of only flying Canadian flags or avoiding a polarizing atmosphere and protests that ultimately hurts trans children. The message of the link assumes the worst, which message is detrimental to children. She notes the video identifies kids were involved, but the comments do not say so.

As noted, the Respondent has taken this post down. The Response explains that *“someone reading the Tweet, without the context of the Global News video contained within the Tweet, may be left with the wrong interpretation of the Tweet.”* She further explained that while she felt that way when posting it in June, since that time, she realized that people could see it differently.

Analysis: So that my comments on the tweet are in context, taking the article at face value, the actions of the “disruptive group of students” are repugnant.

With that context, I agree with the Respondent that the tweet should not have been posted, but not simply because it is easily misunderstood without the context of the Global News video. There are several issues with the tweet.

First, the tweet broadly condemns an entire religion, rather than an “issue-focused” rebuke of the actions of a group of teenage students, while using classic discriminatory terms that it “has no place in civil society”. To highlight that point, consider how this tweet would sound if one substituted “your religion” with various protected groups; the discriminatory tone would be more apparent.

Second, the tweet is not accurate or akin to “fair comment”. The video is about teenage student protests and counter-protests at a YCDSB school, yet the tweet was about *“People yelling & making homophobic comments @ Board meetings...”* which is not accurate.

Third, there is a problematic implication in the statement about “what your religion teaches” which is contradicted by the attached article. The article clearly explains that this *Catholic School Board* immediately condemned the action, considered it criminal activity as they called the Police, and provided their religious perspective that all the attacked students are *“a child of God who is worthy of dignity and respect.”* If the Catholic School Board denounced the actions, then who is the post referring to as teaching hate?

Fourth, the tweet’s reference to board meetings – presumably the May 15, 2023

DDSB meeting – fails to acknowledge any nuance on the gender identity issues. As the Complainant correctly points out, the post is disrespectful and condescending to those people and parents who expressed concerns²¹ about how transgender issues are being addressed at DDSB and equating them with violence.

3. **The May 24, 2023 Post.** This is a retweet of Rev. Jeff Doucette dated May 24, 2023, which states *“I am ashamed of parents mad that @DDSBschools will go virtual with next meetings due to homophobic/transphobic hatred by so called adults. I am more worried about them passing on their hatred to their children than schools teaching love and tolerance. I stand with @PFLAGDurham”*, and it contains an image *“Hate is not holy”*, spelled with a Christian Cross in rainbow colors as the “T” in with word hate.

Analysis: This tweet is much less troublesome than the others above as it is not a broad condemnation of Christianity or any its denominations, is more factual and focused (i.e. calling out hate within a group, as opposed to attacking an entire group), and comes from a Reverend that appears to be speaking of his own religion with regard to the actions of some. This post is not contrary to the Code.

Policy of Controversial Books

4. **The May 28, 2023 Post.**²² This is a retweet of a May 28 post by PFLAG, which is essentially a political cartoon. It contains an image of books as background, with the message on it: *““What do I do if I don’t like a book at the library?” and then smaller words, “A handy step-by-step guide.”* Below the picture are the words *“Step 1: Check out a different book.”*

The Complainant submits that this post is disrespectful, almost making fun of parents who are concerned with certain library books.

The Respondent submits that parents do have the ability to raise concerns with the school libraries and principals such as whether a book is age-appropriate. If they disagree with that decision, they have the right to appeal to the DDSB. She notes, however, that while it appears parents are complaining about some books, she is unaware that there actually has been an appeal (presumably recently).

Analysis: I find this post violates the Code. First, it is inaccurate and misleading as

²¹ To be clear, we are not endorsing the content of the concerns, but pointing out that those raising them have a right to do so *respectfully*.

²² The screen shot provided with the Complaint contained a second post on the bottom. I understand the Complaint to concern the one I cited.

it implies that a parent has no recourse to object to a book, contrary to DDSB policy in which there is a complaint process regarding books. Second, the post is disingenuous because the idea that ‘if one does not like a book, they should just read a different one’ is appropriate to an adult population but is antithetical to the entire purpose of educating children. Children are a captive audience and are not always fully capable of making such decisions, which is why as a society we mandate a curriculum and educate them. If students or parents have an issue with a book that should be a significant concern of the DDSB rather than an attitude of “well just don’t read it.”

To be clear, not every objection to a book is valid and/or something that must be acted upon. Objections may be made and the DDSB may feel that the inclusion of the book is appropriate. But the misinformation and attitude of this post are improper for a DDSB Trustee to publish, as it can logically be assumed to be about DDSB school library policy, as opposed to a community or university library or different setting.

Conflict of Interest and Hate

5. **The May 16, 2023 Post.** This a post of a “Joint Statement Condemning Escalating Incident of Hate” issued by District 13 OSSTF and Durham ETFO, which are both Teacher’s unions, condemning “what transpired at the May 15th Board Meeting...” It states that harm was inflicted on members of the community and urges the DDSB to shut down the attacks and stand against homophobia, transphobia and anti-Black racism.

The Complainant contends that this letter promotes divisiveness and also shows a conflict of interest when considered in light of the Respondent’s own website.

Analysis: I find there is insufficient information to determine if there is a conflict of interest and do not find that this tweet establishes a violation of the Code on those grounds. Likewise, while some, such as the Complainant, can take this letter as polarizing on an issue where the Trustee should be seeking dialogue among stakeholders, the letter is largely general statements by significant stakeholders in the schools against various forms of racism and prejudice.

Protests and Counter Protests not directly involving DDSB

6. **The June 3, 2023 Post.**²³ The Respondent's tweet states: “*This is outside Drag Queen story time today. White hoods replaced with white balaclava type things,*

²³ The Complaint also supplied a second screen shot of the video.

still white supremacy, misogyny & homophobia. Yes hide your faces, you should be ashamed.” The attached retweet shows a picture of people outside a building, one holding a sign, and a few people that appear to be in white balaclava head coverings. The retweet is captioned “*This week @CUPEOntario delegates votes to develop “anti-hate fly squads” to protect all at public places where anti-2SLGBTQL+ groups are gathering. To combat this [arrow to the picture]”*

The Complainant is concerned that the post accuses the protesters of “white supremacy, misogyny & homophobia” and is thus lumping the Complainant’s group into the same group. She refers to a response video that is not in this tweet. She feels the video is pushing a false narrative, and that in fact there has been child trafficking in Durham Region, and thus there is a concern that these programs involve third party influencers. She asserted a belief that participants are not vetted, yet they are given access to children.

The Respondent provided a Durham Region News article that reports that even people opposed to the event for children identified some protestors as “Nazis”.²⁴

Analysis: I watched a video from this event.²⁵ While the protesters may or may not have raised some valid concerns, they were also using language that is known as homophobic speech and making statements that could be interpreted as death threats, while wearing white balaclava hoods which, while not the same hooded hats of the Ku Klux Klan, seem quite similar. Likewise, the Durham Region News article reported that a witness identified some protesters as Nazis. Thus, the Trustee’s comments “*White hoods replaced with white balaclava type things, still white supremacy, misogyny & homophobia*” does not appear misplaced. Unlike some of the Trustee’s other posts that are overly broad, she is identifying specific people doing specific behavior and criticizing it in a manner consistent with the comments of the *Deluca* decision.

As noted above, the *Rainbow Alliance* decision indicates that it is a matter of proper public interest or debate for parents or the public to express various concerns about Drag story time shows such as questioning its age appropriateness, but accusing such performers of pedophilia simply based on participation in a such performance is not. The latter is potentially defamatory under Canadian law.

Moreover, while the post on its most superficial reading can be viewed as making

²⁴ https://www.durhamregion.com/news/drag-queen-storytime-proves-popular-at-durham-libraries-despite-protests/article_ed1afd52-5251-57f5-89c1-96b62c12327e.html

²⁵ YouTube Link to the Library Protest: <https://youtu.be/A5npVqTjFCA?si=To081o4XwwwrYrwR>

a connection between all those opposed to Drag Queen Story Time for children at a public library to white supremacists (a connection which would appear to violate the Code), that's not a likely interpretation of this particular post. Rather, this post is focused on the symbolism of the white balaclavas and language that has been highly associated with hate groups. Thus, unlike the posts above which broadly condemn entire religious groups for the actions of a few, this post is focused on specific behavior and fair comment on it.

7. **The [Unknown Date] Post.**²⁶ This is a retweet of a retweet, with comments by the original posters and three videos of Emily Quail about a counter protest. The text reads:

'There is really no acceptable place for this. Where would you like the fascists to rally?'

This is an incredible interview with a kickass parent. Take a few minutes to listen. (Thx to @LeftHandStud for providing this!) #cdnpoli #canqueer #onpoli

The original retweet states:

"I spoke with lead organizer Emily Quail, a parent of two students at Broadview P.S." and then 3 videos clips that are interviews of Emily Quail.

This post appears to have been taken down by the Respondent. However, the underlying post of the retweeted videos are available on X. Neither party provided significant comment specific to this post. The videos are basically an interview with Emily Quail, a community organizer who was being interviewed while organizing counter protests. Although not apparent from the tweet, this event appears to take place in Ottawa. Ms. Quail objects to the initial protest as being too close to a public school, identifies it as by white supremacists and anti-Semites that are associated with terrorist organizations, and thus she is organizing a counter protest. She identifies herself as politically on the left.

Analysis: This post has been taken down. I do not make a finding that it violates the Code. It's a video that may have some value in showing parents opposing what they perceive as hate, but at the same time it is easily misunderstood because the video does not really give much context about the event – it's actually in another district, not local – and really appears to be just purely political speech. In the context of the Trustee's other posts and her role as a DDSB Trustee, and the comment about "fascists" rallying, it is easily taken that she's talking about DDSB parents or any opposition to even the degree of gender equity issues being in

²⁶ The screen shot provided with the Complainant contained a second post on the bottom. I under the complaint to be about the one I cited above.

school. It strikes me that a Trustee should be very careful tweeting or amplifying extreme terms like “fascists”, and in the few cases she may deem it appropriate, be very careful in identifying the precise behaviour that is being referred to and why that term is appropriate.

Public Comment at the May 15, 2023 DDSB Board Meeting

8. **The June 6, 2023 Post.** The tweet states: *“Great job by Student Trustee Cameron in this article”* with a link to a Durham Region News article, and a partial quote: *“I feel like we’re going back in time’ The LGBTQ policies of Durham District...”*

The partial quote is from the article’s title, *“I feel like we’re going back in time’: The LGBTQ policies of Durham District School Board are under fire”*, with a subheading, *“Parent groups protest, flood question periods on gender identity issues”*. The article posits that DDSB *“has become ground zero for a bitter battle over policies aimed at increasing inclusion and supporting diversity”*, and that the May 23-24 meetings will be virtual because of *“several raucous Public Question Periods caused disturbances.”* I have included portions of the article.

“Recent meetings have seen controversial questions on issues ranging from gender and sexual identity education to dress codes to explicit reading material and the celebration of Pride Month, with parents questioning the flying of the Pride flag and requesting that students be allowed to opt out of Pride activities.

“Our concerns are with policies and procedures put forth by the government and our local school board regarding erotica for minors, the current policies regarding washroom and change room uses, the push on children to choose a sexual orientation or gender before going through puberty and the divisive teachings to our children,” the group DDSB Concerned Parent²⁷s said in a statement following the May 15 meeting. “We believe that children should be taught that they all are special and wonderful no matter who they are. We believe that the school system needs less activism and more academics. We believe that funding should not be motivated by political views but, rather, academic requirements.”

Members of the group were among the spectators cleared from the meeting gallery on May 15 after a commotion broke out following a string of controversial questions that included concerns with the teaching of critical race theory, which was labelled as “Marxist ideology,” mental health impacts caused by gender identity education and the flying of the Pride flag. The incident prompted the move to virtual for the

²⁷ The Complainant is a co-founder of this group.

next two meetings and was addressed by DDSB Director of Education Camille Williams-Taylor.

“Some of these comments were homophobic, transphobic and hateful. Other comments and behaviours were intimidating and harmful by tone or content. To be clear, the DDSB firmly rejects and condemns this behaviour,” Williams-Taylor said in a May 19 update [...]

Student trustee Ben Cameron, a Grade 10 student at Dunbarton High School, said it’s been difficult to sit through recent question periods.

“It’s hard, especially as a queer person, to be villainized and made out to be the enemy, it’s hard to see my LGBTQ peers and the trans and non-binary communities continue to be erased in these peoples’ minds,” he said of the questions posed.

“Some of the ideas, when they speak of gender ideology and denying trans people’s existence and speaking of pedophilia and linking that to the LGBTQ community, these are the kinds of comments that are homophobic in nature, and these are the types of comments we’re hearing at board meetings.”

Cameron said students remain mostly unaware of the controversy, indicating the policies being argued against are succeeding in their main goal — to make schools a safe space for all students.

The Complainant submits that the DDSB’s approach, and posts such as this one, are detrimental to students, such as the Student Trustee. They are being taught that everyone hates them, when in fact, they do not. The Parties did not provide further comments specific to this post.

Analysis: I do not find the Complaint established that this post violates the Code. On the positive side, it cites an article which clearly indicates that the topics are heated and gives a flavor of the respective views. Still, Trustees should be clear on who and what is being criticized and avoid generalized language which could be interpreted as unfair or inaccurate criticism of broader groups.

9. **The May 19, 2023 Post.** This post links to a video and states:

“Myself and the majority of DDSB Trustees will continue to fight back against hate.” [Hashtags omitted]

The 44 second linked video²⁸ is a commentator's review on the May 15, 2023 Board meeting. It includes a few very short few second clips of parent/public questions at the meeting, and the commentator's summation of their comments using a somewhat derogatory tone, and his general summations that the questioners were suggesting that DDSB should not teach about LGBT+ people in general and that the goal is to eliminate Pride at DDSB. He concludes, "*When they say heinous and evil things, we need to drag them into the light.*"

The Complaint submits this video is very concerning. It is (according to her) dubbed and not accurate. She asserts that the few clips of people speaking are misquoted as to what they say, and the commenter's interpretation of the questioners' questions are retweeted as fact. Moreover, the overall message is that parents are portrayed as hateful for asking questions. She asserts that the Trustee is, in turn, spreading a hateful video. In fact, the questions were on a range of topics and parents are concerned over the lack of transparency, the age appropriateness of gender ideology discussions, and vetting of volunteers. She adds that the police report shows that the meeting was peaceful.

The Respondent submits that the Durham Police were present, and although there was no actual violence or arrests, the tone was not peaceful, safe or respectful for staff. People were yelling hateful comments such as "trans people are pedophiles". The meeting needed to be recessed several times and ultimately the public gallery was cleared. A number of members of the staff were frightened and scared to go home. The Trustee acknowledged that there were a range of people there.

Analysis: I find this post disrespectful, unprofessional, and inappropriate for a Trustee to share, due to its sweeping – and false – generalization and name calling. It has a subtle tone of ridicule. A comparison of the statement by DDSB's Director of Education Camille Williams-Taylor, which was reported in the Durham Region News article above, shows the flaws in the post. The Director commented:

"Some of these comments were homophobic, transphobic and hateful. Other comments and behaviours were intimidating and harmful by tone or content. To be clear, the DDSB firmly rejects and condemns this behaviour..." (Emphasis added)

The word "some" is important. In fact, when speaking with me, the Trustee agreed that there were many viewpoints in the crowd. Yet, not only did the Trustee's shared post make no distinction, but her Response also dropped the word "some" when quoting Director Williams-Taylor. As the Complainant points out, the impression of the post is that not *some* but *all* speakers – and perhaps all attendees

²⁸ A longer version of the video is also available online.

– at the event were hateful and homophobic.

To be clear, when I reviewed the video of the meeting, I do agree that some of the comments could be construed as homophobic, but most were not. Most were concerned with the degree of focus on Pride issues. Most communicated respectfully – albeit passionately – on a very polarizing subject.

What is also disturbing about this post is that Trustee Oldfield used relatively similar terms for white hooded (alleged) Nazis in the June 3, 2023 Post (“... still white supremacy, misogyny & homophobia... you should be ashamed”) and the parents in this tweet that largely asked questions that were pre-screened²⁹ by the DDSB (“hate” and “*When they say heinous and evil things, we need to drag them into the light*”). “Heinous and evil” are very serious accusations and could very well be interpreted as defamatory.

The real point is that parents have concerns on a host of issues, which may make some uncomfortable as the *Deluca* court stated. But endorsing a video that shows short clips of community members speaking at a Board meeting and commenting about ‘dragging hate’ into the light, are chilling and unnecessary words that are not professional or respectful to stakeholders, and which stifle legitimately held concerns being voiced³⁰. Moreover, at the end of the day, the post provides very little educational value to as to what was found to be hateful.

SUMMATION

In my interview with Trustee Oldfield, she presented as very concerned with furthering the DDSB mission, while respecting and working with stakeholders of many different perspectives. In fact, she explained to me, which I accept, that she has made connections and had conversations with religious groups who have opposing interests and has tried to find common ground. Unfortunately, as explained above, in my view, several of her tweets publicly convey the opposite attitude and missed the mark. I find that Trustee Oldfield’s posts 1, 2, 4, and 9 contravened the Code, while posts 3, 5, 6, 7 and 8 do not, as indicated in this Report.

As this office has noted in prior decisions, a Trustee occupies a privileged position

²⁹ We acknowledge that not all deputants stuck to the script of their questions, and also that there was significant hostility displayed by some in the public gallery.

³⁰ Again, we do not endorse the concerns themselves, but acknowledge that the speakers have a legitimate right to have and express concerns respectfully. This makes no allowance for those who expressed hateful comments, which are clearly unacceptable.

at the table where local education policy is established. That role comes with significant social responsibility. A Trustee's public statements about public education matters will likely and reasonably be interpreted by members of the community as information pertaining to the DDSB. Her tweets about religious issues can easily be inferred to reflect the attitude of the DDSB towards certain religions and/or religious beliefs. Similarly, her tweets about hate, homophobia and "heinous and evil things", with reference to public participation sessions before the DDSB, without specifying the particular comments that are improper or hateful, and failing to acknowledge that the questions were pre-screened, can be assumed to be the Board's policies and practices and an institutional view of parental concerns.

In reviewing the tweets and speaking with the Parties, I asked myself, 'How would I view these tweets if I was a local resident or parent of a child in this school district? Would I feel free to raise respectful concerns without then being subject to public ridicule, such as being called "heinous"? Would my question be posted and actively disseminated, but without the full context, and a strong negative spin against it? Would I consider the critiques "issue-focused"? If I was a Christian (a protected class under applicable human rights legislation), would I feel my child's heritage was being respected when I see a political cartoon or a comment that "my religion has no place in a civilized society?"' – and I find it likely that some would not feel respected by such imagery and commentary. As the Complainant points out, even from perspective of a parent of a trans student, 'Would I feel these posts ultimately serve to "*promote a positive school climate that is inclusive and accepting*" or do they create a polarized atmosphere?'

While the Trustee's intended goal is noble – calling out hate – the sweeping nature of several of these posts creates (or least promotes) a polarizing atmosphere. Inaccurate messages that those who do not actively "celebrate" the lived experiences of others or would like to alter or curtail the method of the "celebrating", *must hate them*. To be clear, some very well could – and hate should and must be combatted wherever it is found – but the impugned posts go beyond calling out bonafide instances of hate to the point of making unfortunate generalizations and even mocking religious beliefs. That may be fine for private citizens and special interest groups, but it is not the purview of an elected Trustee.

Given a Trustee's role, the Integrity Commissioner and I would encourage the Respondent (and all Trustees) to consider how differing groups could view their comments or messages. When offering a criticism, be specific as to what happened and explain why one disagrees. Unless truly required, avoid labeling, particularly with extraordinary labels such as "white supremacist" and "fascist". Advocacy

and allyship need not be moderated, but a Trustee ought to use moderate terms in all but exceptional circumstances, befitting the role as a leader in public, multi-cultural education system.

Certainly, there are neo-Nazis and other hate groups in Canada who, among other goals, may seek actual violence against the 2SLGBTQIA+ community. Parents and the other people that I saw on the DDSB recording, who spoke at the May 15 meeting, do not appear to be those groups and should not be talked about with the same labels as those spreading hate, unless it can be demonstrably proven otherwise. I realize that there may have been comments from the public gallery that were not picked up on the video (in fact, the Integrity Commissioner has been informed that there were such comments from gallery), and the questioners themselves had a broad range of comments, some of which may likely be in opposition to Pride issues being addressed in public schools at all, and those comments can be addressed as against DDSB policy and various human rights codes. However, most of those on-the-record comments, consistent with the recent *Rainbow Alliance* decision, while emotional, are legitimately part of a public debate, and how issues, and the extent to which the issues, are being taught and focused on in public schools.

The Respondent's posts do not serve the DDSB and its stakeholders, or square with a trustee's fiduciary duty to the Board or their obligations under the *Education Act*. Reflecting the Code's language, Trustee Oldfield's posts are a failure to discharge her duties "loyally, faithfully, impartially and in a manner that will inspire public confidence in the abilities and integrity of the Board." Some of the impugned tweets (as indicated) draw disrespectful and unprofessional blurry lines between parental concerns and hate groups, and/or are not issue-based, and/or have a tone of being "demeaning and disparaging". They are accordingly "disrespectful and unconstructive". While these tweets were intended to make the DDSB an inclusive environment for all people, some of them did the opposite. Some of what was expressed ran contrary to the human rights of DDSB students, and some of it was misleading as to actual DDSB policy. I find that the Respondent failed to meet the high standard of care required of her position.

For these reasons, we find that Trustee Oldfield contravened sections 6.3, 6.4, 6.5, 6.8, 6.11, and 6.44 of the Code. We do not find that the Trustee contravened section 6.9. We recommend that the Board also make such a finding.

In making a recommendation for a sanction, (i.e., a censure by the Board), we considered that several of the posts were beyond the line of acceptable communication. However, to the Trustee's credit, we are unaware that she has

ever been criticized for her posts previously, and these impugned posts appear to be a negligent use of social media rather than anything ill-intended.

Importantly, the Trustee has already begun re-examining how her posts could be interpreted by the public – something she has done unilaterally, and which should be commended. We note an apology letter would be a fitting remedial measure, but it is not a listed sanction under the *Education Act*.

Additional Observations

As Mr. Maynard stated in prior reports on social media usage, this report does not concern (1) policy, or (2) Trustee’s rights and responsibilities to contribute meaningfully to policy making and the governance of the Board. There is room for respectful discussions about the best policy choices to meet the needs of DDSB students and their families – and Trustees and stakeholders may not always agree about those policy choices.

We would further add that this report is not intended to limit a Trustee’s social and moral responsibility to speak up for disadvantaged or marginalized groups and to promote equity at the DDSB. We acknowledge the duty of the Board and its Trustees to promote equity and foster a welcoming learning environment for all students. This case only concerns compliance with the Code of Conduct by an individual who agreed to be bound by it as a condition of taking her role.

In our view, the Code’s duties are not an unjust incursion into a Trustee’s freedom of expression. Trustees are free to hold whatever opinions they wish and have some reasonable latitude to bring forth those opinions *in good faith* through policy development processes and discussions at the Board. They also have an obligation to stand up against hate, and the Respondent’s intent in this regard is laudable. But Trustees are not free to confuse difference of opinion with hate, broadly villainize parents or religious groups, or spread misinformation about DDSB policies, and when they act, they must do so respectfully. These rules are established by law, and enforceable via the Code of Conduct that the Board has adopted to govern itself.

CONCLUSION

We have concluded that Trustee Oldfield breached the Code. However, section 218.3 (2) of the *Education Act* provides that the ultimate authority to determine whether a Trustee breached the Code lies with the Board itself, as follows:

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

Through its appointing by-law, the Board has entrusted inquiries about Code complaints to its appointed Integrity Commissioner.³¹ Such inquiry having been made, the Board is now required by law to consider this Report and make its own determination whether Trustee Oldfield has breached the Code of Conduct.

If the Board determines that Trustee Oldfield breached the Code, s. 218.3 (3) of the *Education Act* allows a limited range of permissible sanctions, as follows:

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

In accordance with the above findings, should the Board of Trustees also adopt same, we make the following recommendations as to sanctions:

- 1. We recommend that the Board censure Trustee Oldfield.**

Respectfully,

Jeffrey Shapiro

Jeffrey Shapiro
Investigator, Office of the Integrity Commissioner

[cont’d next page]

³¹ *Appendix 1 – Appointment, Selection and Jurisdiction of the Integrity Commissioner*

Endorsement and Issuance of Report

I, Michael L. Maynard, Integrity Commissioner for the DDSB, have reviewed the evidence, process, and results of Mr. Shapiro's Investigation. I agree with and endorse this Report, which we have jointly prepared, and hereby issue it to the Complainant and Trustee Oldfield in conclusion of this matter.

Prior to the Report being released to the Complainant and the Board, I confirm that Trustee Oldfield was provided with an advance copy of the Report and an opportunity to provide comments. Though this is not mandatory under applicable DDSB Policy, this Office considers it to be a best practice. Trustee Oldfield did not provide comments to our office.

As required by the *Education Act*, I (1) confirm that a copy of this Final Report has been provided directly to the Parties and to the Board via its Chair and General Counsel, and (2) ask that this Final Report be published on an open DDSB meeting agenda and be considered by the Board of Trustees at its earliest opportunity.

Confidentiality

Pursuant to DDSB's Complaint Protocols, an Appendix to the Code of Conduct (*Appendix 2 – Complaints Protocol - the Integrity Commissioner*), this Report, excluding any redactions made, when provided to the DDSB and published on an open Board meeting agenda, will be considered "available to the public" and thus no longer confidential:

4.8 Confidential and Formal Complaints

A Formal Complaint will be processed as follows: ... (b) All report from the Integrity Commissioner to the Board of Trustees will be made available to the Public. The report may be redacted..."

Only the published version of this Report which appears on the Board agenda is considered public. Anything not published on the Board's agenda (e.g., redactions) shall remain confidential.

Concluding Remarks

I trust this Investigation Report provides clarity to the parties regarding the matters raised in this Complaint.

I thank Mr. Shapiro for his work on this matter, and we both thank the parties for their cooperation.

This matter is now concluded.

A handwritten signature in black ink, appearing to read "M. Maynard", with a long horizontal flourish extending to the right.

Michael L. Maynard
Integrity Commissioner, DDSB



Integrity Commissioner Office
for Durham District School Board

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JEFFREY SHAPIRO

Investigator
Office of the Integrity Commissioner
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January 31, 2024

SENT BY EMAIL TO:

Complainant [Anon]

And To:

Trustee Cunningham

And To:

**DDSB Board of Trustees
c/o Chair Christine Thatcher and Patrick Cotter (General Counsel)**

**Re: DDSB Code of Conduct Investigation Report (the "Report")
File No. IC-27326-1023**

INTRODUCTION

This is our Report respecting a complaint ("Complaint") under the Durham District School Board's ("DDSB" or "Board") Trustee Code of Conduct ("Code") concerning the conduct of Trustee Emma Cunningham ("Trustee Cunningham", the "Trustee" or the "Respondent"), and specifically her activity on social media.

This investigation was conducted by Jeffrey Shapiro ("Mr. Shapiro" or the "Investigator") pursuant to a written delegation of powers dated November 10,

2023 by Michael L. Maynard, the Integrity Commissioner (“IC”) for the Board. The delegation is for the Investigator to inquire into, investigate and prepare a report, subject to the IC’s review and approval.¹ The Report follows the terms of the IC’s January 18, 2021 appointment as the IC for the Board and the Board’s Complaint Protocol (“Protocol”)².

The Complaint was filed with the Office of the Integrity Commissioner (“Office”) on October 18, 2023. We have determined that this matter is within our jurisdiction and mandate, and is not frivolous, vexatious, or made in bad faith. Below we will address the Trustee’s concern that this Complaint was retaliatory.

After reviewing the matter, we find that some of Trustee Cunningham’s social media activity did violate the Code for the reasons set forth below.

Inquiry Process

We followed a process that ensured procedural fairness to all Parties. That process included:

- Reviewing written submissions of the Parties (i.e., the Complaint, Response and Reply) and supporting materials, including underlying or linked content, and facilitating the exchange of those submissions between the Parties;
- Reviewing the relevant portions of the Code, applicable legislation, and caselaw;
- Providing an opportunity for one-on-one interviews to all Parties;
- Providing an advance draft of this report to the Respondent, who was afforded an opportunity to provide comments thereon;³
- Providing the Final Report to all Parties and the Board.

As with all matters before the Integrity Commissioner, the civil “balance of probabilities” standard of proof was applicable to this matter.

¹ See section 223.3(3) of the *Municipal Act*, 2001.

² DDSB’s Complaint Protocol is an Appendix to the Code of Conduct, i.e. “Appendix 2 – Complaints Protocol – Integrity Commissioner.”

³ The Report was provided to the Parties slightly beyond the preferred time-frame under the Complaint Protocol due to year-end holidays.

THE COMPLAINT

The Complaint alleges that three of Trustee Cunningham’s social media “posts” or “tweets” and associated threads on X (previously known as Twitter) violated the Code. In reference to the posts, the Complainant submits, “Her tweets are dangerous and highly offensive.”

The Impugned Tweets

The Complaint identifies and comments on the tweets as follows:⁴

1. **The May 17, 2023 Post.** The Complaint states: “Emma Cunningham had referred to concerned parents and community members as a hate group (May 17/23) by re-tweeting [a] video [1:54], full of misinformation about a recent board meeting [May 15] attended by parents.” The tweet states:

“A hate group mobilized at a Durham District School Board (DDSB) meeting and demanded some wild things. Let’s talk about it...”

The video’s⁵ subject is the DDSB’s May 15, 2023 Board meeting, although it is unclear if it is intended as factual reporting or commentary. The commentator states that he believes, but cannot confirm, that Linda Stone, “a Trustee that has been banned from all future committee meetings for making racist and transphobic remarks”, brought in various people to speak in opposition to the DDSB position on gender identity issues.⁶ While he cannot confirm Trustee Stone’s actions, he has sources that say it’s true. He relates hearing reports of multiple students and parents that were at the meeting being escorted to their cars because they feared for their safety.

The video then provides very brief clips of seven parent (or stakeholder) questioners, with his comments on each. Regarding the questioner discussing flying the pride flag, he concludes “we know that your goal is to eliminate Pride at schools.” He then concludes the video by saying “when people say heinous and evil things we need to drag them into the light.”

2. **The May 20, 2023 Post.** The Complaint states: “Emma [Cunningham] tweeted

⁴ The tweets were posted in May and June of 2023. All were up when the Complaint were filed.

⁵ We understand is also a shorter version of this video available online.

⁶ This Report will refer to “gender identity issues” or “Pride” interchangeably. Those terms are intended to be understood broadly to refer to the “Pride” and/or “2SLGBTQIA+” communities, and related topics of gender, sexual identity, orientation, and expression, and equity and inclusion.

(May 20/23) that queer/trans people were in danger because parents are questioning bathroom use, inappropriate books, bullying, the SOGI content and worried about the age appropriate content through these resources (3 days after calling us a hate group).” The retweeted tweet states as follows:

“for pride month this year can straight people focus less on “love is love” and more on “queer and trans people are in danger””

The Complaint’s Appendix includes a second May 17, 2023 post. It is a retweet as follows:

“@ WillowsWalk we are steadfast in our commitment of supporting and celebrating all identities. Everyone has a right to be their authentic self without fear. The Progress Pride Flag is a symbol that lets 2SLGBTQ+ people know they are safe to be who they are.”

3. **The June 9, 2023 Post.** The Complaint states: *“Tweets refer to concerned parents as bigots – refers to trustees as bigots. Calls people hateful and refers to parental consent as a violation of children’s human rights (under 16).”*⁷

The Trustee’s tweet says, *“This is a travesty, an embarrassment, and a violation of the child’s human rights”* in comment on a CTV News retweet: *“Trans, non-binary students under 16 in N.B. need parental consent for pronoun changes [link to news article⁸].”*

The Complaint includes several related retweets:⁹

Retweet of a Tweet Thread by Erika Loughheed:

“There are no “both sides” to debating human rights. Protecting the human rights of student identities & cultures does not equal your perceived right to platform bigotry. Not. The. Same. [Emoji of a justice scale] Cc: Some trustees today.”

Second Tweet in Thread by Erika Loughheed:

“We need to not suppress their right to their opinion and allow them to delegate to boards.’ Fact check: nothing in the ed act that says school boards

⁷ The Complainant ads, “Stephen Lecce – Minister of education stated clearly that boards are required to respect parental rights and involvement in their children’s education. She is in direct violation of what was asked by the province.”

⁸ <https://atlantic.ctvnews.ca/trans-non-binary-students-under-16-in-n-b-need-parental-consent-for-pronoun-changes-1.6432484>

⁹ These are not currently posted. The Respondent has not disputed them.

need to have" [tweet cut off].

RESPONSE

Trustee Cunningham's October 30, 2023 four page Response focused entirely on her request to have the Complaint dismissed as retaliatory. She points to three factual bases, summarized as follows (the bold headings are mine):

1. **Retaliation on behalf of Pickering City Councillor Lisa Robinson** ("Robinson"). She sees the timing as suspicious. It comes four days after Pickering's Integrity Commissioner released a report against Robinson, despite that "*[The Complainant] has known my position on supporting the 2SLGBTQIA+ community for almost a year now, perhaps longer...*"

The Trustee explained that she previously filed a Complaint with the City of Pickering against Robinson related to a speech she made on DDSB property immediately following the contentious May 15, 2023 DDSB meeting where the public was asked to leave. The City's Integrity Commissioner found that Robinson's speech was homophobic. Pickering's Code of Conduct provides that a Councillor cannot retaliate for Code complaints, yet Robinson has since filed retaliatory complaints against other council members, which have been dismissed. The Trustee believes that this Complaint may actually be filed on behalf of Robinson.

2. **Retaliation on behalf of DDSB Trustee Linda Stone.** Similarly, this "*Complaint was also filed less than two weeks after the delivery of a report by ADR Integrity in which I was one of three complainants against Trustee Linda Stone, with similar subject material relating to the transgender community.*" The Respondent submits that, "*[The Complainant] would know that I had filed against Trustee Stone in the past...[The Complainant] has similar beliefs and values to Trustee Stone and is a staunch supporter.*" This office's October 5, 2023 report found that Trustee Stone's tweets in fact were "*misinformation and scaremongering*". Finally, she cites a series of posts by the Complainant's group Concerned Parents that mirror those beliefs.
3. **A veiled threat.** She notes "*The morning after the Pickering City Council meeting where Councillor Robinson was sanctioned, Trustee Stone wrote a post on her now-deleted Facebook page saying "Hey councillors and trustees, what goes around comes around."* This furthers the case that *[The Complainant's] entire submission is retaliatory. Please see Exhibit D.*"

REPLY

The Complainant's November 2, 2023 Reply makes several points:

1. She acknowledged following Trustee Cunningham's social media since the last election, initially due to the Trustee's position on the continuation of using facemasks at schools.
2. She felt that *"after finding some pretty disrespectful posts, and watching Trustee Cunningham attack vetted long-standing trustees, I felt that she was in the wrong. It is not respectful to publicly shame and attack anyone for differing views or opinions..."* During the summer, her team started to put together documentation expecting to submit a complaint in June 2023 but then when public meetings became closed at the DDSB, her group shifted focus. She supplied screenshots of her group's "Integrity Commissioner" folders.
3. She acknowledged speaking at the October 23, 2023 Board meeting with regard to a bylaw amendment which she found "anti-Democratic".
4. She believes the Trustee's Exhibit A shows why the Complainant was originally following her. Exhibit B has a nothing to do with her Complaint. In Exhibit C, *"only one of the screenshots was shared by me. It is a delegation of a parent at a school board and meeting that has the exact same concerns as my parent group and the freedom group that I belong to."* She never saw Exhibit D.

INTERVIEWS

Both Parties were offered the opportunity to, and did, participate in an interview. I have summarized some of their more overarching comments immediately below, and then incorporated more specific comments when discussing each post.

Interview with the Complainant on December 18, 2023

The Complainant is one of the founders of "DDSB Concerned Parents". She considered herself to be accepting of and a supporter of the Pride community. In fact, she submits members of her organization and close members of her own family are part of the Pride community. Thus, her concern with the current state of the Pride movement, including as implemented at the DDSB, and reflected in the impugned tweets, is that Pride is no longer about acceptance and inclusivity, but about politics and policies and that there is too much focus on it. She believes many in the Pride community are actually scared for how it is being implemented.

She believes the old Pride flag was about fighting for acceptance – a battle which she supports and believes is largely won – while the new flag has become about the loss of rights of parents, and a culture in which it is now unacceptable to ask questions, and the loss of rights of everybody else. As for the DDSB, she is concerned about:

1. The age appropriateness at which Pride issues are being taught. She understands that gender ideology is not to be taught in detail until grade 8, but yet asserts it is being taught at a younger age.
2. Parents not being involved in material that is being approved.
3. There being extremists on both sides, and a middle ground is being lost.

Although Trustee Cunningham's X account has disclaimers that it is her personal account and the views are her own, she is a Trustee and posts about the DDSB and many of her hashtags are about the DDSB and education.

One of the Complainant's most overriding concerns is that regardless of the intent of the posts, the posts ultimately teach 2SLGBTQIA+ children that the broader community hates them, when in fact that is not the case. While she acknowledged that there are those that do not "celebrate" Pride because they "hate" the concept of transgender or queerness, the posts do not leave room for the whole host of reasons why people, ranging from neutral to supporters, do not celebrate Pride in ways such as flying the flag at schools.

Interview with the Respondent on December 18, 2023

The Respondent reiterated her belief that the Complaint was filed in retaliation as set forth in her Response. She noted that an underlying challenge at the DDSB is that often parents' disagreement on policy is actually with provincial policy rather than the DDSB's policy. Her points on the specific posts are referred to below.

CITED CODE SECTIONS

The Complaint alleged that the Respondent contravened sections 6.3, 6.4, 6.5, 6.8, 6.9, and 6.44 of the Code of Conduct, which read as follows:

Integrity and Dignity of Office - Principles

- 6.3 *Trustees shall discharge their duties, as set out in the Education Act, loyally, faithfully, impartially and in a manner that will inspire public confidence in the abilities and integrity of the Board.*

- 6.4 *Trustees, as leaders of the Board, must uphold the dignity of the office and conduct themselves in a professional manner at all times, and especially when attending Board events or while on Board property.*
- 6.5 *Trustees shall ensure that their comments are issue-based and not personal, demeaning or disparaging with regard to any person, including Board staff or fellow Board members.*
- 6.8 *Trustees shall serve and be seen to serve in a constructive, respectful, conscientious and diligent manner.*
- 6.9 *Trustees shall be committed to performing their functions with integrity and shall avoid the improper use of the influence of their office, and conflicts of interest, both apparent and real.*

Discreditable Conduct

- 6.44 *All Trustees have a duty to treat members of the public, one another, and staff members respectfully and free from discrimination and harassment. This applies to all forms of written and oral communications, including via social media.*

EDUCATION ACT

Although not cited by the parties, I note the following sections of the *Education Act*:

Board responsibility for student achievement ...

169.1 (1) *Every board shall,*

(a) promote student achievement and well-being;

(a.1) promote a positive school climate that is inclusive and accepting of all pupils, including pupils of any race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability;

Duties of board members

218.1 *A member of a board shall,*

- (a) *carry out his or her responsibilities in a manner that assists the board in fulfilling its duties under this Act, the regulations and the guidelines issued under this Act, including but not limited to the board's duties under section 169.1; [...]*
- (g) *maintain focus on student achievement and well-being; and*
- (h) *comply with the board's code of conduct.*

BACKGROUND HISTORY AND INTERPRETIVE PRINCIPLES

Over the past several years this office has received, investigated and issued reports concerning DDSB Board members and their use of social media, particularly concerning gender identity issues. In the course of those reports¹⁰, the DDSB's Integrity Commissioner, Michael L. Maynard, and Investigators working with him, have identified principles that apply to this matter. Those are:

- “Political speech” by elected municipal politicians enjoys significant protection, even where it could generate material discomfort or unease among the citizenry; but there are significant legislative differences between municipal councillors and school board trustees. Unlike politicians, a Trustee’s governance role is not foundationally about “giving voice” to the opinions of themselves or others, or to argue for their personal political viewpoints – rather, it is to help the local education system adapt and transform effectively to changing needs and shifting challenges.
- Trustees are simply more limited than councillors in their “freedom” to speak. To the extent a Trustee’s speech might harm members of the local community, it may run counter to their overarching obligation of advancing public education equitably, and can be contrary to the *Code of Conduct*.

Over the past year, the Canadian Supreme Court and Ontario Courts have also grappled a number of defamation cases concerning the propriety of social media posts on contentious topics which also provide useful principles, even where the legal context is different. For instance, the Ontario Superior Court’s introduction in *DeLuca v. Foodbenders*¹¹ is a good starting point to consider social media posts, even if that case did not deal with School Boards:

¹⁰ See, for example, the Crawford Report dated June 6, 2022 and the Stone Reports dated January 23, 2023, May 26, 2023, and October 5, 2023.

¹¹ *DeLuca v. Foodbenders*, [2023 ONSC 6465](#) (“DeLuca”).

“[1] There are many social and political issues that people feel passionately about. Public discourse about such issues is important.

[2] As noted by [the Ontario Court of Appeal] “[F]air disagreements over policies and principles can be undertaken, indeed ought to be taken, through responsible discourse. Whatever disagreements there may be... Views can be exchanged and debated without the need for personal attacks.

[3] This case illustrates what can happen when a person’s passionate views and their discourse about social or political issues cross the line and become defamatory attacks against an individual.”

Thus, while a Trustee’s social media obligations under the Code are a higher standard than “defamation law”, the principals of defamation are a useful backdrop to help analyze some of the tweets in this matter. At a minimum, defamatory speech is not respectful.

DeLuca explained¹² that a court must first consider if words are defamatory in the sense of lowering a person’s reputation, refer to the person, and are published to more than one person. The circumstances must be considered.

However, even if words are defamatory, they may be permitted, for purposes of defamation law, if considered “fair comment”. Fair comment are words (1) about a matter of public interest, (2) comments or opinions and not statement of fact, although facts may be referenced, (3) based upon true facts, and (4) objectively fair in the sense that any person could honestly express the comments or opinions based on the proved facts. However, words are not “fair comment” if the speaker intended malice or were so extreme that they exceed the bounds of what the fair comment defence is designed for.¹³

Citing the Supreme Court, *DeLuca* explained that the comments must “*explicitly or implicitly indicate, at least in general terms, what are the facts on which the comment is being made.*” Thus, a “*reader should be able to recognize the facts so that they can then “make up their own minds” about the comment being made. Further, the foundation for underlying facts must actually be true; if they are not, then the defence fails.*”¹⁴

¹² *DeLuca*, paras 39-40, 64-69.

¹³ *DeLuca*, paras 64-69, 82-84. Malice generally means ill will or spite. It can be established through speaking dishonestly or with reckless disregard for the truth.

¹⁴ *DeLuca*, paras 64-69, 82-84

In *Rainbow Alliance Dryden et al. v. Webster*¹⁵, issued December 14, 2023, the Superior Court addressed similar issues to those involved in this matter, albeit dealing with defamation between private citizens. The Defendant posted comments against the Plaintiffs who were involved in a drag story time performance, including an implication that they were “groomers”. The Plaintiffs sued for defamation submitting those comments were “not public interest speech, but rather a hateful and defamatory attack that was designed to provoke hostility against an identifiably vulnerable group that is protected under [s.15](#) of the *Canadian Charter of Rights and Freedoms*”. The Defendant requested the lawsuit be dismissed as being “strategic litigation against public participation” (“SLAPP”).¹⁶

The Court denied the dismissal request and allowed the matter to proceed to determine if the Defendant’s posts were defamatory. The Court noted that an expression may be defamatory under tort law, yet still be a matter of public interest under the SLAPP defence¹⁷. The Court found that the impugned posts did not relate to the propriety of the CBC journalist report and Drag Story Time events, but the implications that “grooming is the reason the drag performers “need” to perform for children.” The Court found the “term “groomer” refers to someone who manipulatively develops a relationship...with a child to exploit and abuse them. It is a slur that is used to allege that drag performers sexualize children and aim to recruit them into the 2SLGBTQI”.¹⁸ The court found that “perpetuating such shared types and myths about members of the 2SLGBTQI community is not public interest speech.”

Importantly, the Court placed a limit on its ruling, which is very relevant here:

[48] Had Webster merely pointed to the CBC article and questioned whether the taxpayer funded CBC should be promoting drag storytime events, or expressed his opinion that it should not, I would be inclined to find that this constituted public interest expression. Similarly, if the post merely questioned the propriety of drag storytime for children, or expressed his opinion that drag storytime is not appropriate for children, I may have been inclined to find that the matter was social commentary and public interest speech. However, [Webster’s] comments went well beyond that, perpetuating hurtful myths and stereotypes about vulnerable members in our society. Webster’s argument that he was accusing the CBC of grooming has no merit based on a plain reading of the post. I agree with the Plaintiffs that the post does not represent speech that [SLAPP] intended to

¹⁵ *Rainbow Alliance Dryden et al. v. Webster*, [2023 ONSC 7050](#) (CanLII).

¹⁶ SLAPP is codified as s. 137.1 of the *Courts of Justice Act*.

¹⁷ *Rainbow Alliance*, [2023 ONSC 7050](#) (CanLII), at [para 42](#).

¹⁸ *Rainbow Alliance*, [2023 ONSC 7050](#) (CanLII), at [paras. 46- 47](#).

*protect.*¹⁹ (Emphasis added.)

ANALYSIS

Is this Complaint retaliatory, and if so, should it be dismissed on those grounds?

No. As mentioned above, the Respondent requests that this Complaint be dismissed as being retaliatory against her on behalf of Councillor Robinson and/or DDSB Trustee Linda Stone. She notes that she participated in Complaints against each of them. She relies on the timing of this Complaint compared to the respective Integrity Commissioner decisions against Councillor Robinson and Trustee Stone on those complaints, and Trustee Stone's tweet. Clearly, the Respondent's evidence provides a good-faith basis for her request to dismiss.

In response, the Complainant denies the allegation and submits that it has been her group's intention to file this Complaint prior to the reports. Besides her interview with me where she denies any retaliation, she submitted several screen shots from her WhatsApp group setting up folders to gather information predating the reports, and offers explanations for the delay, such as a shift in priorities when the DDSB suspended in-person public attendance. I note that a political interest group gathering information in the manner described is not contrary to any rules of fairness that govern this process.

Two Code Sections are relevant:

- Section 6.47 provides in part that, *"Any reprisal or threat of reprisal against a complainant or anyone else for providing relevant information to the Integrity Commissioner is prohibited..."*
- Section 4.3(c) of the Code's "Appendix 2 – Complaints Protocol - Integrity Commissioner" provides in part that, *"The Integrity Commissioner shall undertake a threshold assessment of any Formal Complaint and shall determine whether the Complaint is...frivolous, vexatious, or not made in good faith...in which case the Integrity Commissioner shall terminate the investigation, or where that becomes apparent in the course of the investigation..."*

Thus, while the Code does not specifically bar retaliatory Complaints by a member of the public, arguably a retaliatory Complaint could be barred as "vexatious or not made in good faith."

¹⁹ *Rainbow Alliance*, [2023 ONSC 7050](#) (CanLII), at [para 48](#).

Applying the Code to this matter, I accept the Complainant's position that the Complaint was not retaliatory and was filed in good-faith. While the timing raised by the Respondent could be seen as suspect, ultimately there is no direct evidence of any kind that the Complainant was acting at the direction of, or on behalf of, either Councillor Robinson or Trustee Stone. Likewise, the Complainant denied that she was acting on their behalf, produced some objective evidence to the contrary, and presented a logical basis for the timing. Moreover, following her submissions and during my interview with her, I had no concerns as to her credibility. Her overall concerns were well reasoned – regardless of whether I do or do not agree with her underlying politics. Her presentation struck me as truthful and straight forward, and when I challenged her, she was open to hearing counter arguments.

Did Trustee Cunningham Contravene the Code by Posting these Tweet-Threads?

Yes – the May 17 and June 9 posts violate the Code. Before discussing each tweet in detail, I note the three main tweets / threads boil down to the following messages: (1) parents asking questions are labeled a “hate group” and lumped in as saying “heinous and evil things”, (2) an apparent call to action for “straight people” to recognize that queer and trans people are “in danger”, and (3) those seeking parental notification/involvement are ‘embarrassingly violating children’s human rights’.

From my perspective, the overall issue with the “tweet-threads” is not whether the Trustee’s opinions are correct or not, but the sweeping, disrespectful, divisive, polarizing tone and dubious factual presentation, given her role as a Trustee. As the *Rainbow Alliance* case points out, there is a distinction between (1) baselessly using known slur terms such as “groomers” against parts or all of the Pride community, which is defamatory and lacks public interest, and (2) legitimately held parental concerns, even if uncomfortable to some, about what, how, and when Pride and gender identity issues are taught or implemented in schools.

These posts do not make any such distinction. They leave no room for any discussion or grey area.

In considering these tweets, I reiterate the difference between a Trustee’s role and that of members of the public as explained in the interpretive principles above. For example, individuals and special interest advocacy groups are not bound by the Code and generally entitled to engage in a wider breadth of political speech – perhaps like the language in these tweets. Arguably, their posts can be disrespectful of opponents. However, a Trustee’s role mandates a different

standard. Her role is to act as a fiduciary to a Board, which has a duty to be a steward of community children and public education. Their role is to create bridges with the multicultural community that the Board serves. The proper role is to engage, and have the difficult conversations, not to end them. Where necessary, their role is to inform parents about the school system and the Board's activities, and to seek consensus where possible.

In the words of the Code, given their role, a Trustee's communication is required to be "professional" (Code section 6.4) and "issue-based" (6.5), while not being "personal, demeaning or disparaging with regard to any person, including Board staff or fellow Board members" (6.5). Comments must be "constructive, respectful" (6.8), and "treat members of the public, ... respectfully and free from discrimination and harassment...[when using] social media" (6.44). Trustees "shall discharge their duties...in a manner that will inspire public confidence in the abilities and integrity of the Board" (Code s. 6.3).

With such extreme language, these tweets do not meet the Code's standards.²⁰

1. May 17, 2023 Post and Video (The May 15, 2023 Board Meeting)

This tweet states "*A hate group mobilized at a...DDSB meeting and demanded some wild things...*", and links to a video. The two minute video is a commentator's review of the May 15, 2023 Board meeting. It includes brief few second clips of seven parent/stakeholder questioners at the meeting with the commentator's summation of their comments using a somewhat derogatory tone and imputes motives to the last one - and possibly all speakers, i.e., "*We know that your goal is to eliminate pride at schools.*"²¹ The video concludes, "*When people say heinous and evil things, we need to drag them into the light.*"

The Complainant submits that she and other concerned parents should be able to speak at a Board meeting without fear that they will face the charge of being a "hate group" on social media by a publicly elected Trustee. She feels the video is dubbed and not accurate. The commenter's interpretations of the questioners' questions are retweeted as fact. She adds that the police report shows that the

²⁰ In contrast, none of these tweets violate Code section 6.9. While I could question whether the Trustee was "performing their functions with integrity", that section's use of "with integrity" is more in context of conflicts of interest. Also, the impropriety of the posts is more accurately addressed by the above cited sections (i.e. 6.3, 6.4, 6.5, 6.8 and 6.44).

²¹ While this inquiry and consideration of the Trustee's posting such video is not a court case bound by Ontario's rules of evidence, I note that the rules of evidence generally consider it "unfair" to criticize and make findings against a party or even a witness without giving them a chance to respond. The concept is come to be known as the Rule of *Browne v Dunn*.

meeting was peaceful.

In her interview, the Respondent acknowledged that it might be a stretch to call the concerned parents group a “hate group”. She nevertheless explained that some of the language used such as “groomer” and “indoctrination” are known as hateful speech and slurs against the Pride community and thus a group that uses such language is a “hate group”. Staff were harassed and called pedophiles coming in and out of the meeting.

Analysis: I find this post disrespectful, unprofessional, and inappropriate, generally due to its sweeping – and false – generalization and name calling. It has a subtle tone of ridicule. A comparison with the statement by DDSB’s Director of Education Camille Williams-Taylor, which was reported in the Durham Region News article above, shows the flaws in the post. The Director commented:

“Some of these comments were homophobic, transphobic and hateful. Other comments and behaviours were intimidating and harmful by tone or content. To be clear, the DDSB firmly rejects and condemns this behaviour,..” (Emphasis added)

The word “some” is important. As the Complainant points out, the impression of the post is that not *some* but *all* speakers – and perhaps all attendees – at the event were hateful and homophobic. Even the October 13, 2023 Report on Lisa Robinson cited by Respondent, at paragraph 84, clarifies “some speakers made derogatory comments”, but the egregious “pedophiles and groomers” comments came from the “hecklers in the gallery” – yet the video does not mention that point.

The post gives a very limited indication that the questions were actually prescreened by the DDSB’s staff and is thus misleading.²² The DDSB did not endorse the underlying views, but in screening the questions did not rule them out of order and incapable of presentation on the basis that they were “*hateful, heinous, and evil.*” That said, we recognize that at least one speaker went off script, and there were significant disturbances, including hateful language, from some in the gallery.

The video also contains questionable and implicitly disrespectful remarks about another Trustee (i.e., Linda Stone). The video presenter may be free to speculate or make an unsupported claim about a Trustee / their involvement, but the Respondent is not free to amplify it.

²² The video does mention that one of speakers “lied to the Board about what her question was” but does not make clear that that the remaining questions were pre-screened by the Board.

To be clear, when I reviewed the DDSB's video recording of the meeting, I do agree that some of the comments could be construed as homophobic, but most were not. Most were concerned with the degree of focus on Pride issues. Most communicated respectfully – albeit passionately – on a very polarizing subject.

I also find the Respondent's submission that *hateful speech equals a hate group* disingenuous, and a view that falls short of her duties as a Trustee under the Code. It is simply not constructive, issue-based or respectful to use a label of "hate group", which is commonly associated with violent racist groups. It's also not constructive to randomly use such terms without being very specific to whom the label applies. In this case, it's against either those with pre-screened questions or against the public – literally the public gallery – as if all were hateful, when in reality only some were engaging in such egregious conduct.

The real point is that parents have concerns on a host of issues, which may make some uncomfortable as the *Deluca* court stated. But endorsing a video that shows short clips of community members speaking at a board meeting and commenting about 'dragging hate' into the light, are chilling and unnecessary words for a Trustee to amplify. They are not professional or respectful to the stakeholders and they stifle legitimately held concerns (whether ultimately proven correct or not) from being voiced. Moreover, the post provides very little educational value as to what was found hateful.

The Trustee's real issue does not appear to be contained in the tweet or her Response. In her interview, she explained that some staff reported that they were stopped on the way into the meeting and accused of supporting pedophilia, and during the meeting people screamed out various slurs at staff – all of which is clearly vile and unacceptable behaviour. With that being the case, the Trustee's tweets should be sharing official statements from the DDSB or the authorities, while her own comments should be to the effect that slurs were used or that certain offensive words were used, and if not obvious, explain why those words are considered to be slurs and why they should not be tolerated. If some people acted inappropriately, say that some people acted inappropriately – as the Director did in her statement – rather than lumping everyone in as part of a "hate group" (or at least sharing a post that does this).

2. The May 20, 2023 Post ("queer and trans people are in danger") and the May 17 Retweet (the "Flag...let's...people know they are safe").

The Complainant sees the May 20, 2023 post as a direct follow up to the May 17 post above it and relates both to the May 15, 2023 meeting. Thus, in the

Complainant's view, the May 20 post implies that parents at the May 15 meeting and anyone who isn't celebrating is a danger to the Pride community. The Complainant feels that the message actually creates the danger it allegedly is attempting to prevent, because it is trying to force everyone to fully join something. It states that "queer and trans people are in danger" but provides no context or explanation of what is the danger. Apparently, the "danger" is because there is a lack of understanding and acceptance – but the Complainant believes that trying to put the rights of one group over another and telling people that they have no choice but for their children to participate in Pride celebration creates a backlash.

The Respondent believes that trans children are in danger. She cites the DDSB Climate Report that asked students about their feelings of safety in school, and reports that the 3rd and 4th groups reporting the most bias are members of the Pride Community. Other studies show that the Pride community experiences bias (of various types) in schools. She also submits that the type of language that the Concern Parents uses is hateful and leads to an unsafe environment for Children.

Analysis: From my perspective, the various posts are more likely intended as separate stand-alone tweets (noting that three days separates them) and are not to be read together as the Complainant suggests. Read as stand-alone tweets, they do not violate the Code. However, the Trustee (and all Trustees) should be cautioned regarding the content of their tweets, particularly where they provide a strong opinion or seemingly factual statement like "queer and trans people are in danger" without supporting evidence or an indication of the situation to which they are referring. Trustees should avoid making vague, contextless, or unsupported claims which are easily subject to widely different interpretations and may ultimately lead to further polarization.

3. The June 9, 2023 Post (Parental notice of pro-noun changes)

The post states, *"This is a travesty, an embarrassment, and a violation of the child's human rights"* in comment on a CTV News tweet: *"Trans, non-binary students under 16 in N.B. need parental consent for pronoun changes [link to news article]."* Additional retweets are in the thread.

The Complainant submits that parents have the legal obligation to care for their children until they are 18 and the practical and/or moral obligation to care for them for the rest of their life. She submits that a Trustee's attitude should show a desire to work with parents, as partners, in the education and best interest of children. She believes it sends a very antagonistic message to parents when she calls it a

“travesty, embarrassment” that a legislative body believes that parents should be involved in what could be a child’s most important decision that could affect them for the rest of their life.

The Complainant submits that in cases where there is real concern that a child is in actual danger because parents would not accept the pronoun change, then there are processes to deal with that, such as child services. However, DDSB should not adopt as a starting point that parents are to be excluded.

In talking with the Respondent, she agreed that ideally parents should be involved, but had a different perspective that children need space to try new things, and the DDSB is to create that space where needed. She was clear that a school’s involvement within the DDSB is limited to pronouns changes and does not extend to any involvement in medical interventions.

Importantly, when I asked the Trustee about parental rights, she noted that at certain points a child’s human rights and parental rights can be in conflict “and that’s the debate”, i.e. “what trumps?”.

Both parties mentioned Education Minister Lecce’s comments. The Complainant submitted that the Minister advised that parents should be involved, while the Respondent asserted that the Minister’s comments were just his opinions and have not been legislated.

Analysis: Again, the issue in this post is the sweeping, unprofessional, divisive and disrespectful polarizing message. The Trustee is entitled to her views, but when she acknowledges that this topic is very much in debate, using dramatic phrases such as “*This a travesty, an embarrassment*” and declaring it “*a violation of the child’s human rights*” (a claim which the courts are only beginning to explore), she is creating an atmosphere of distrust between the DDSB and the very parents she is obligated to work with.

Similarly, retweeting that “*there are no “both sides” to be debating human rights. Protecting the human rights of student identities and cultures does not equal your perceived right to platform bigotry*” (also posted on June 9, 2023) creates the same issue. It is literally saying that any parent that disagrees with policy has no valid basis to disagree and is therefore a bigot. Given her position as a Trustee, it reflects back on the Board – and one could reasonably infer that the Board will not even entertain questions on the topic.

A school board member should never have or project an attitude that parents who

are concerned about their children, want to be involved and informed of their children's life, and/or are fulfilling their legal and accepted role as parents, are "bigots", especially on a topic that is not settled in Canadian law and policy. Perhaps if the Trustee wanted to cite studies or make a cogent argument supporting her position against this policy decision, this post would be *very* different. But tweets must project that parents' concerns and positions will be listened to and taken seriously by the DDSB and not simply rejected out of hand, even if they are not ultimately followed.

The Respondent also related that the one retweet's comment "cc: some trustees today" was not intended to refer to anyone at the DDSB. She believes that the tweet's author was referring to a Trustee in Toronto. I accept the Respondent's submission to me. However, the Trustee is a member of the DDSB and did retweet this publicly without a disclaimer. Thus, the post reasonably appears to be referring to a fellow Trustee(s) of the DDSB, which, if interpreted as a suggestion that one or more of her colleagues are platforming bigotry without providing justification for such a claim, could also be a violation of the Code.

SUMMATION

During my interview with Trustee Cunningham, she presented a much more nuanced view of the issues addressed in her posts. Unfortunately, in my view, her tweets missed the mark for the reasons above. I find that her posts contravened the Code sections 6.3, 6.4, 6.5, 6.8 and 6.44, but not section 6.9, as set forth above.

As this office has noted in prior decisions, Trustees occupy a privileged position at the table where local education policy is established. That role comes with significant social responsibility. Public statements about public education matters will likely and reasonably be interpreted by the community as information pertaining to the DDSB. When she tweets about parental input at Board meetings, parental rights, and involvement with their children's lives, it can be reasonably inferred to include an attitude of the DDSB on those issues.

In reviewing the tweets and speaking with the parties, I asked myself 'What would I feel if I was a resident or parent of a child in this district? Would I feel free to raise concerns without then being subject to public ridicule, such as being called "heinous"? Could I expect my raising questions would be posted and actively disseminated, and a strong negative spin against it, but without hearing the full context? Would I consider the critiques "issue-focused"? Would I feel that my involvement and relationship with my child was being respected? Would I feel that my child was forced to celebrate Pride and not given an option to stay neutral?

As the Complainant points out, even from the perspective of a parent of a trans student, ‘Would I feel these posts ultimately serve to “*promote a positive school climate that is inclusive and accepting*” or do they create or contribute to a polarized atmosphere?’

With all these questions, as a stakeholder, I would have serious concerns. While the Trustee’s intended goal is noble – calling out hate – the sweeping nature of several of these posts creates a polarizing atmosphere where those who have a different view of parental involvement are bigots, when messages of constructive dialogue would be appropriate.²³

Given a Trustee’s role, going forward, I would encourage her to be very careful in considering how opposing groups might view her message. When offering a criticism, be specific as to what happened and explain why she disagrees. Unless truly required, avoid labeling, particularly with extraordinary labels such as “hate groups”, “evil” and “bigot”, and try not to publish offering sweeping, vague, and thus easily misinterpreted information and/or concerns. Advocacy and allyship need not be moderated, but a Trustee ought to use moderate terms in all but exceptional circumstances, befitting the role as a leader in public, multi-cultural education.

Certainly, there are hate groups in Canada who may seek actual violence against the Pride community, but parents and the other people that I saw on the DDSB recording who spoke at the May 15 meeting are not those groups and should not be talked about with the same labels. I realize that there may have been comments from the public gallery that were not picked up on the video (in fact, the Integrity Commissioner has been informed that there were such comments from the gallery), and the questioners themselves had a broad range of comments, some of which may likely be in opposition to Pride issues being addressed in public schools at all, and those comments can be addressed as against DDSB policy and various human rights codes. However, most of those on-the-record comments, consistent with the recent *Rainbow Alliance* decision, while emotional, are legitimately part of a public debate respecting how issues, and the extent to which the issues are being taught and focused on in public schools.

The impugned posts do not serve the DDSB and its stakeholders, or square with a Trustee’s fiduciary duty to the Board or their obligations under the *Education Act*. For these reasons, we find that Trustee Cunningham contravened sections 6.3, 6.4,

²³ To be clear, hate should and must be combatted, but the impugned posts do not effectively do that, but instead create divisiveness. Post such as these may be fine for private citizens and special interest groups, but it is not the purview of an elected Trustee.

6.5, 6.8, and 6.44 of the Code. We do not find that the Trustee contravened section 6.9. We recommend that the Board also make such a finding.

In making our recommendation for a sanction, the permitted sanctions are not all entirely appropriate. The most appropriate sanction would be a censure by the Board. An apology letter from the Trustee would also befit the circumstances (though this is not a sanction). While these posts violate the Code, this is a first offense and likely a negligent use of social media. We do not see barring the Trustee from participating in Board governance, even temporarily, is warranted.

Additional Observations

As Mr. Maynard stated in prior reports on social media usage, this report does not concern (1) policy, or (2) Trustee's rights and responsibilities to contribute meaningfully to policy making and the governance of the Board. There is room for respectful discussions about the best policy choices to meet the needs of DDSB students and their families – and Trustees and stakeholders may not always agree about those policy choices.

We would further add that this report is not intended to limit a Trustee's social and moral responsibility to speak up for disadvantaged or marginalized groups and to promote equity at the DDSB. We acknowledge the duty of the Board and its Trustees to promote equity and foster a welcoming learning environment for all students. This case only concerns compliance with the Code of Conduct by an individual who agreed to be bound by it as a condition of taking her role.

In our view, the Code's duties are not an unjust incursion into a Trustee's freedom of expression. Trustees are free to hold whatever opinions they wish and have some reasonable latitude to bring forth those opinions *in good faith* through policy development processes and discussions at the Board. They also have an obligation to stand out against hate, and the Respondent's intent in this regard is laudable. But Trustees are not free to confuse difference of opinion with hate, broadly villainize parents or spread misinformation about DDSB policies, and when they act, they must do so respectfully. These rules are established by law, and enforceable via the Code of Conduct that the Board has adopted to govern itself.

CONCLUSION

We have concluded that Trustee Cunningham breached the Code. However, section 218.3 (2) of the *Education Act* provides that the ultimate authority to

determine whether a Trustee breached the Code lies with the Board itself, as follows:

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

Through its appointing by-law, the Board has entrusted inquiries about Code complaints to its appointed Integrity Commissioner.²⁴ Such inquiry having been made, the Board is now required by law to consider this Report and make its own determination whether Trustee Cunningham has breached the Code of Conduct.

If the Board determines that Trustee Cunningham breached the Code, s. 218.3 (3) of the *Education Act* (as follows) allows a limited range of permissible sanctions:

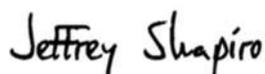
If the Board determines that the Trustee has breached the Board’s Code of Conduct, the Board may impose one or more of the following sanctions:

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

In accordance with the above findings, should the Board of Trustees also adopt same, we would make the following recommendation:

- 1. We recommend that the Board censure Trustee Cunningham.**

Respectfully,



Jeffrey Shapiro
Investigator, Office of the Integrity Commissioner

²⁴ *Appendix 1 – Appointment, Selection and Jurisdiction of the Integrity Commissioner*

Endorsement and Issuance of Report

I, Michael L. Maynard, Integrity Commissioner for the DDSB, have reviewed the evidence, process, and results of Mr. Shapiro's Investigation. I agree with and endorse this Report, which we have jointly prepared, and hereby issue it to the Complainant and Trustee Cunningham in conclusion of this matter.

Prior to the Report being released to the Complainant and the Board, I confirm that Trustee Cunningham was provided with an advance copy of the Report and an opportunity to provide comments. Though this is not mandatory under applicable DDSB Policy, this Office considers it to be a best practice. Shortly after receiving a draft of this report, Trustee Cunningham responded: *"Thank you for this. I have no further comments and accept the findings as fair and unbiased."*

As required by the *Education Act*, I (1) confirm that a copy of this Final Report has been provided directly to the Parties and to the Board via its Chair and General Counsel, and (2) ask that this Final Report be published on an open DDSB meeting agenda and be considered by the Board of Trustees at its earliest opportunity.

Confidentiality

Pursuant to DDSB's Complaint protocols, an Appendix to the Code of Conduct (*Appendix 2 – Complaint Protocol - Integrity Commissioner*), this Report, excluding any redactions made, when provided to the DDSB is considered "available to the public" and thus no longer confidential:

4.8 Confidential and Formal Complaints

A Formal Complaint will be processed as follows: ... (b) All reports from the Integrity Commissioner to the Board of Trustees will be made available to the Public. The report may be redacted..."

Concluding Remarks

I trust this Investigation Report provides clarity to the Parties regarding the matters at issue raised in this Complaint. We thank the parties for their assistance and cooperation. This matter is now concluded.



Michael L. Maynard,
Integrity Commissioner, DDSB



ADR
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January 19, 2024

SENT BY EMAIL TO:

Complainant in IC-27108-1023 (the “Complainant”)

And To:

Trustee Linda Stone

And To:

DDSB Board of Trustees

c/o Chair Christine Thatcher and Patrick Cotter, General Counsel

Re: DDSB Code of Conduct Investigation Report for Complaint IC-27108-1023

1. Introduction and Delegation of Investigative Powers

This is the report by the Integrity Commissioner for the Durham District School Board (“DDSB”) concerning the above complaint filed by the Complainant with the Integrity Commissioner on October 5, 2023 under the DDSB’s Trustee Code of Conduct (the “Code of Conduct”) concerning the conduct of Trustee Linda Stone (“Trustee Stone”). The Integrity Commissioner for the DDSB has delegated to Ellen Fry the authority to investigate and report on this complaint, subject to his review and approval.

2. The Complaint

The Complainant complains about the conduct of Trustee Stone as follows:

Linda [S]tone on a number of occasions has been spreading hate speech. She attended the [M]arch for [C]hildren in September where she marched against the [B]oard that she worked for. This march spread lies and hate against the LBGTQTS2+ communities.

Linda [S]tone has made numerous posts on Facebook that are dangerous, unprofessional, hate speech and definitely has made me lack confidence in her as a [T]rustee. She has made numerous posts on Facebook and Twitter promoting hate speech against mainly the trans community.

On [O]range [S]hirt [D]ay while the schools were learning about truth and reconciliation, Linda [S]tone was sharing a story that [denies] the treatment of the indigenous people in residential schools.

The Complainant believes that Trustee Stone has contravened sections 6.3, 6.5 and 6.8 of the Code of Conduct. She has provided copies of 7 social media posts that in the Complainant's view show this to be true.

3. The Investigation

The Office of the Integrity Commissioner reviewed:

- The written complaint (including its attached information and links) filed with the Integrity Commissioner on October 5, 2023. Trustee Stone was given the opportunity to file a written response to the complaint, but did not do so.
- The Code of Conduct
- Relevant provisions of the *Education Act*
- The DDSB policy entitled "Supporting our Transgender Students"
- The DDSB policy entitled "Equity and Inclusive Education"
- The DDSB Indigenous Education Policy
- Previous relevant decisions of the DDSB Integrity Commissioner Office

The Office of the Integrity Commissioner also conducted telephone interviews with the Complainant and Trustee Stone.

4. Relevant Provisions of the Code of Conduct and *Education Act*

As indicated above, the Complainant believes that Trustee Stone has contravened sections 6.3, 6.5 and 6.8 of the Code of Conduct.

These sections provide as follows:

6.3 Trustees shall discharge their duties, as set out in the *Education Act*, loyally, faithfully, impartially and in a manner that will inspire public confidence in the abilities and integrity of the Board.

6.5 Trustees shall ensure that their comments are issue-based and not personal, demeaning or disparaging with regard to any person, including Board staff or fellow Board members.

6.8 Trustees shall serve and be seen to serve in a constructive, respectful, conscientious and diligent manner.

The *Education Act* contains the following relevant provisions concerning the duties of Trustees:

169.1 (1) Every board shall,

...

(a.1) promote a positive school climate that is inclusive and accepting of all pupils, including pupils of any race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability;

...

(c) deliver effective and appropriate education programs to its pupils;

218.1 A member of a board shall,

(a) carry out his or her responsibilities in a manner that assists the board in fulfilling its duties under this Act, the regulations and the guidelines issued under this Act, including but not limited to the board's duties under section 169.1;

5. Analysis

General Comments

In investigating this complaint, the Integrity Commissioner is called upon to determine whether Trustee Stone has complied with her responsibilities under the Code of Conduct in the social media posts that are cited in the complaint. The Integrity Commissioner is not called upon to determine whether the views expressed by Trustee Stone are correct or incorrect.

Trustee Stone believes that in making the communications being complained of she was simply exercising freedom of expression, and she articulates the view that people should not be prevented from expressing opinions that may differ from the opinions of others.

However, the freedom of expression of Trustees is not unlimited, as in expressing their views Trustees must comply with the Code of Conduct that they agreed to be bound by as a condition of taking the role of Trustee.

The Integrity Commissioner's investigation of a complaint against a Trustee does not bring into question a Trustee's rights and responsibilities to contribute meaningfully to the governance of the Board through the policy-making process. There is always room for respectful discussions about the best policy choices to meet the needs of DDSB students and their families, and Trustees may not always agree about those policy choices. Trustees are free to hold whatever opinions they wish and have some reasonable latitude to bring forth those opinions in good faith through policy development processes and discussions at the Board. However, they must comply with the Code of Conduct.

Trustee Stone's role in local education policy comes with significant social responsibility. Her public statements about public education matters will likely and reasonably be interpreted by members of the community as information pertaining to the DDSB. When a Trustee communicates about education policies and practices, it is reasonably assumed to be about their own Board's policies and practices, and hence reflects back on the Board.

The social media posts that are cited in the complaint are discussed individually below.

As discussed below, the Complainant is correct that Trustee Stone has contravened the Code of Conduct in making some of the posts. However, none of the social media posts

are directed against any specific person, and hence none of the posts contravene section 6.5 of the Code of Conduct as alleged by the Complainant. The Integrity Commissioner also notes that none of the social media posts that are cited support the Complainant's general statement that Trustee Stone "has been spreading hate speech".

Social Media Posts #1

These are two posts by Trustee Stone that state "Puberty is not a disease" and contain the following text:

Puberty blockers can worsen the mental health of children, premature menopause, osteoporosis, children who did not attempt suicide before PBV attempt it after being on them, decrease bone density, FDA issued a black box warning, possible brain swelling, loss of vision, mood changes, anxiety, insomnia, sexual dysfunction, delusions, depression, genital atrophy, and many other possible side effects according to Marian Grossman in her incredible book, *Lost in Trans Nation*. There is no good data on the use of them and yet children are fast tracked because they claim, without diagnosis, th... [sic – remainder of the text is not available]

These posts by Trustee Stone express the view that decisions for pupils to take puberty blockers are highly questionable and that puberty blockers may cause the pupils who take them to experience a number of negative conditions. These conditions in her view would include mood changes, anxiety, insomnia, delusions and depression. These conditions would likely affect significantly the pupils' behaviour at school. Reading these posts could likely impact the self-worth of pupils who take puberty blockers and cause concern to their parents. Reading these posts would also likely cause parents of at least some other pupils in the class to caution their children about associating with the pupils who take the puberty blockers.

However, negative as the impact of these posts is likely to be and noting that the Integrity Commissioner is not called upon in this instance to determine whether the views of Trustee Stone are correct or incorrect, it is not a contravention of the *Education Act* or the Code of Conduct to share what Trustee Stone reasonably considers to be accurate medical information.

Social Media Post #2

This is a post by Trustee Stone that states "De-trans day is March 12. Lets make it de-trans education week in schools."

“De-trans” refers to detransitioning, which means stopping or reversing gender transition.

In this post, Trustee Stone is simply suggesting that schools should designate the week of March 12 as detransitioning education week. It is possible that in connection with this suggestion Trustee Stone would put forward her views concerning gender transition or detransitioning in a way that contravenes the Code of Conduct. However, in this post she is not putting forward any views; she is simply suggesting a timeframe in which schools should focus on this topic. Accordingly, in making this post, Trustee Stone did not contravene the Code of Conduct.

Social Media Post #3

This is a post by Trustee Stone that states “Excellent speech by Shannon Bochy in Ottawa”. It refers to a speech given by Mr. Bochy at the Million Person March for Children which took place on September 20, 2023 in Ottawa and provides a link to Mr. Bochy’s speech.

In his speech, Mr. Bochy advocates working to eliminate “woke” school boards. He states his view that in gender matters school boards, starting in kindergarten, are following a 4-step process of indoctrination, affirmation, medicalization and sterilization, which should be stopped.

As outlined above, the *Education Act* requires the DDSB to have a positive school climate that is inclusive and accepting of all pupils, and the DDSB’s policies aim to further this objective.

Trustee Stone’s strong approval of Mr. Bochy’s speech undercuts the objective of having a positive school climate that is inclusive and accepting of all pupils. It also is likely to have a negative impact on public confidence in the abilities and integrity of the DDSB and fails to address DDSB’s policies in a constructive manner.

Accordingly, in making this post, Trustee Stone failed to carry out her responsibilities in a manner that assists the DDSB in fulfilling its duties under s. 218.1(a) of the *Education Act* and is in contravention of sections 6.3 and 6.8 of the Code of Conduct.

Social Media Post #4

This is a link to a speech by Trustee Stone in Pickering on September 20, 2023. In this speech, Trustee Stone expresses disapproval of what she considers to be current gender

ideology in schools. In her view, this encompasses changing names and pronouns without parental consent, social transitioning, “dangerous” puberty blockers and indoctrination. She states that she is addressing her concerns to the Premier of Ontario, the Ontario Minister of Education, and Boards of Education.

In this speech Trustee Stone criticizes the actions of school boards strongly. In doing so she presents her point of view in a way that is essentially an emotional call to action, rather than an impartial presentation of what she sees as the issues. Since she is a Trustee of the DDSB and made the speech in the DDSB school district, it is clear that she is including the DDSB in the school boards she is criticizing.

In presenting her point of view in this manner, Trustee Stone is failing to discharge her responsibility under section 6.3 of the Code of Conduct to discharge her duties in a manner that will inspire public confidence in the abilities and integrity of the Board and is failing to discharge her responsibility under section 6.8 of the Code of Conduct to serve and be seen to serve in a constructive and respectful manner.

The Integrity Commissioner notes that the Complainant alleges in the complaint that Trustee Stone attended the Million Person March for Children. The information available indicates that Trustee Stone was not at the main March which took place in Ottawa. However, she was in Pickering at an associated event, where she gave the speech that is the subject of this social media post.

Social Media Post #5

This is a post by Trustee Stone that shows a cartoon-like depiction of various naked bodies and the following comment by Trustee Stone: “I wonder if this book is in DDSB libraries. Warning...graphic”.

Trustee Stone indicates that she is not aware of whether the book containing this depiction is in any DDSB school libraries. She indicates that DDSB has a process whereby parents with a concern about a book in a school library can file a form that will lead to the review of the book by a committee established by the Board. She indicates that this process is not open to Trustees to initiate. She indicates that she is aware that there are DDSB parents pursuing the issue of books in school libraries, but that she did this post because she wants to use every avenue to make people aware of the issue.

Trustee Stone’s posted comment does not allege that the book in question is actually in any DDSB libraries. However, a person reading her comment would reasonably

interpret it as implying that DDSB libraries may have one or more books containing material that she considers sexually graphic and inappropriate.

Providing appropriate school libraries is one of the many things that the DDSB does to fulfill its responsibility to “deliver effective and appropriate education programs to its pupils” as required by section 169.1(1)(a)(a.2)(c) of the *Education Act*. Section 218.1 of the *Education Act* requires Trustee Stone, as a member of a school board, to “carry out...her responsibilities in a manner that assists the board in fulfilling its duties under this Act...”

As indicated by Trustee Stone, the DDSB has established a process whereby parents can seek a review of books they consider to be inappropriate. However, by making this post, Trustee Stone is undermining this process. Accordingly, in doing so, she is contravening her responsibility under section 6.3 of the Code of Conduct to discharge her duties as set out in the *Education Act* in a manner that “will inspire public confidence in the abilities and integrity of the Board”.

Also, in making her post, Trustee Stone could have simply included text that described verbally what she believed the issue to be. However, she chose to communicate the issue by including in her post the reproduction of a picture that she appears to consider sexually graphic and inappropriate. She did not need to do so. By communicating in this fashion, Trustee Stone is contravening her responsibility under section 6.8 of the Code of Conduct to “serve and be seen...in a...constructive [and] respectful...manner”.

Social Media Post #6

This is a link posted by Trustee Stone to an article called “Behind the Orange Shirt” in a publication called the *Dorchester Review*. This article concerns a book called “The Orange Shirt Story”, which is about an indigenous child’s experience at a residential school. The article challenges the accuracy of some aspects of the book.

The post indicates that the link was posted on September 29, 2023, which was the day before the National Day for Truth and Reconciliation. The Complainant believes that posting the link, particularly at this time, was inappropriate, as in the Complainant’s view it undermined DDSB’s teaching concerning the National Day for Truth and Reconciliation (also known as Orange Shirt Day).

The Integrity Commissioner does not consider that posting this link contravened the Code of Conduct. The article that was the subject of the link presented itself as a factual critique of the story being told in the book and did not communicate disrespect of

indigenous people. We reiterate that the Integrity Commissioner is not called to determine the accuracy of the critique, nor is the Integrity Commissioner in a position to do so. There is nothing in the Code of Conduct that would limit the timing of posting such a link.

Social Media Post #7

This is an exchange of posts by Trustee Stone with a third party, as follows:

Trustee Stone: If we stole the land and are apologizing for it then give it back for goodness sake!

Third Party: I did not steal any land from anyone. And I am not responsible for what happened over 200 years ago.

Trustee Stone: Ditto

The Complainant indicates that this was posted by Trustee Stone at the time of the National Day for Truth and Reconciliation, and Trustee Stone indicates that this timing is possible. As in the case of Social Media Post #6, the Complainant believes that this post, particularly at this time, was inappropriate because it undermined DDSB's teaching concerning the National Day for Truth and Reconciliation.

This exchange of posts does not communicate disrespect of indigenous people and does not appear to contradict or undermine DDSB policy. The DDSB Indigenous Education Policy provides as follows:

4.1 The District recognizes that it is situated on the ancestral and treaty land of Mississaugas of Scugog Island First Nation and the Chippewas of Georgina Island, two Anishinaabek Ojibwe Nations. The Durham District School Board acknowledges that many Indigenous Nations have long-standing 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 land treaty lands that we teach, learn and live. These Nations hold legal and specific rights in their respective territories. This area has been and continues to be home for Indigenous peoples and non-Indigenous peoples.

Accordingly, the Policy does not address the questions covered by these posts --- i.e. whether lands should be returned to indigenous people and whether Canadians today should be held responsible for events concerning indigenous lands 200 years ago.

Taking these factors into account, the Integrity Commissioner does not consider that these posts by Trustee Stone contravene the Code of Conduct.

6. Conclusion

As explained above, the Integrity Commissioner concludes that Trustee Stone has contravened sections 6.3 and 6.8 of the Code of Conduct in making social media posts #3, #4 and #5.

However, the ultimate authority to determine whether a Trustee breached the Board's Code does not rest with the Integrity Commissioner. Rather, it lies with the Board itself. Section 7 of the DDSB's Code of Conduct states the following:

7.1 If the Integrity Commissioner determines that the Trustee has breached this Code of Conduct, the Integrity Commissioner shall report to the Board of Trustees reciting the findings of the Integrity Commissioner. The Board of Trustees shall consider the report of the Integrity Commissioner and the Board of Trustees shall make its own assessment and determination of whether there has been a breach of the Code of Conduct and, if so, may impose one or more sanctions as provided for in section 218.3 of the Education Act, as may be amended from time to time. The Board has no power to declare the Trustee's seat vacant.

This is keeping with section 218.3 (2) of the *Education Act*, which states:

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

Through its appointing by-law, the Board of Trustees has entrusted inquiries about Code of Conduct complaints to its appointed Integrity Commissioner. Such inquiry having now been made, the Board is now required by law to consider the results of the Integrity Commissioner's inquiry and to make its own determination regarding whether Trustee Stone has in fact breached the Code of Conduct.

If the Board determines that Trustee Stone breached the Code, section 218.3 (3) of the *Education Act* allows a limited range of permissible sanctions, as follows:

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

Should the Board of Trustees adopt these findings, and in accordance with the statutorily permissible sanctions, the Integrity Commissioner recommends as follows:

1. That the Board censure Trustee Stone;
2. That Trustee Stone be barred from attending one meeting of the Board.

The Integrity Commissioner asks that this report be published on an open DDSB meeting agenda and be considered by the Board of Trustees at its earliest opportunity.

Dated this 19th day of January, 2024



Ellen Fry
Investigator, Office of the Integrity Commissioner

Endorsement and Issuance of Report

I, Michael L. Maynard, Integrity Commissioner for the Durham District School Board, have reviewed the evidence, process, and results of Ms. Fry's Investigation. I agree with and endorse this Report, and hereby issue it to the Complainant, Trustee Stone, and the Board in conclusion of this matter.

I would like to thank Ms. Fry for her assistance, and we would both like to thank the parties for their cooperation throughout this investigation process.

Report 3

This matter is now concluded.



Michael L. Maynard
Integrity Commissioner

[addendum to follow]

ADDENDUM

Though it is not a requirement under the DDSB's policies, the Integrity Commissioner confirms that Trustee Stone received an advance draft of this report, and that she was invited to provide comments thereon for our consideration prior to the finalization and publication of this report.

Trustee Stone provided several comments on the draft by email on January 13, 2024 (received on Monday, January 15th), all of which were considered. We summarize her feedback as follows:

- Regarding Social Media Post #3, Trustee Stone explained why, in her view, the speaker was justified in making his speech and why she supported it.
- Regarding Social Media Post #4, Trustee Stone explained that she was invited to speak at the event; that she shares the concerns of the parents at the event; that her belief is that students are being harmed by "gender ideology" in the school system; and that she believes her actions are repairing a "lack of confidence in the board by thousands of parents," who do not feel heard.
- Regarding Social Media Post #5, she asserted that sexually explicit material in school libraries is an area of concern, and she is representing parental concerns on point.

Having considered the points raised by the Trustee in her feedback on the draft report, we do not find cause to alter our conclusions.



ADR
C H A M B E R S

Integrity Commissioner Office
for Durham District School Board

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January 31, 2024

SENT BY EMAIL TO:

Complainant

And To:

Trustee Linda Stone

Cc: DDSB Board of Trustees
c/o Chair Christine Thatcher and Patrick Cotter (General Counsel)

Re: Investigation Report – IC-27450-1023

Introduction and Delegation of Investigative Powers

Introduction

This is our report respecting a complaint brought by the Complainant against Trustee Linda Stone (“Trustee Stone”), under the DDSB’s *School Board Member (Trustee) Code of Conduct* (the “Code of Conduct”), pursuant to a formal Complaint Form dated and received October 24, 2023.

Mr. Michael L. Maynard, DDSB’s Integrity Commissioner, determined that this matter was within our Office’s mandate, and conducted the bulk of the investigation in fall 2023. On January 12, 2024, Mr. Maynard delegated a limited authority to Mr. Benjamin Drory to assist in drafting this Report based upon the

investigation, subject to Mr. Maynard's review and approval. Messrs. Drory and Maynard jointly prepared this report based on Mr. Maynard's investigation.

During the investigation, we reviewed the formal complaint, the *Code of Conduct*, the *Education Act*, and documentary evidence provided by the parties.

Complaint and Investigation

The following section notes the subject matter of the Complaint and additional concerns that were raised subsequent to its filing. Names of the Complainant and third-party individuals are purposely anonymized.

Complaint and Follow-up Messaging

The Complainant wrote as follows in his formal October 24, 2023 submission:

In early October, Linda Stone named me by my full name on multiple occasions on her public Facebook page. She caused both me and my family personal harm. We have been harassed online now on multiple Facebook pages to the point I had to change my name online and [REDACTED]

Screenshots have been added. As a parent of a child in the DDSB I find it appalling (sic) that an elected trustee would personally attack a constituent in such a manner.

The Complainant attached screen captures of Facebook posts – see Appendices 1 to 3.¹ Although exact dates are unknown, at some point (Appendix 1) Trustee Stone posted the following, referencing a comment on X:

Here's what Pflag has to say about my posts. They are definitely on the wrong side of history here. Why don't they care about children?

"Enough is Enough. Stop the sexual orientation and gender identity of indoctrination of children."

In the replies, Trustee Stone commented:

Lol this is coming from [Pflag Durham President] and [Complainant] who were

¹ Partially redacted to protect privacy.

both on the secret zoom meeting with unions calling parents fascists, hateful etc. So much for love is love. They just keep coming after me. Why don't you care about kids?

Appendix 2 shows an occasion where Trustee Stone posted a video to Facebook, writing:

Please watch. Should be shown in schools. Detransitioner who was influenced by social media to transition. Stop harming children. Egale, Pflag, unions do you hear this?

In the replies, Trustee Stone wrote:

Hey Egale, Pflag ([Pflag Durham President], [Complainant]), unions, is this what you want for children? Is this what you are pushing for in schools? Irreversible Damage ... read the book. Lost in Trans Nation ... read the book. Enough is enough.

On a different occasion (Appendix 3), Trustee Stone posted:

[Complainant] and [Pflag Durham President], both were on that horrible zoom call with union execs. Do you apologize to parents or stand by what was said?

The Complainant asserted that through these actions Trustee Stone contravened sections 6.44, 6.45, and 6.46 of the DDSB Trustee Code of Conduct.² Those sections mandate:

Discreditable Conduct

6.44 All Trustees have a duty to treat members of the public, one another, and staff members respectfully and free from discrimination and harassment. This applies to all forms of written and oral communications, including via social media.

6.45 DDSB ... Human Rights policies and the Ontario Human Rights Code ... apply to the conduct of members which occurs in the course of, or is related to, the performance of official business and duties of Trustees, and to that extent are incorporated into and form part of this Code of Conduct. ...

² <https://www.ddsb.ca/en/about-ddsb/resources/Documents/IntegrityCommissioner/Board-Member-Trustee-Code-of-Conduct-Appendix-A-0-0-2.pdf>

Failure to Adhere to the Board Policies and Procedures

6.46 Trustees are required to observe the terms of all policies and procedures established by the Board that apply to members of the Board.

Mr. Maynard wrote to the Complainant and Trustee Stone separately on October 26, 2023 advising that he received the complaint, and he provided Trustee Stone a 10-day opportunity to submit a written response. Mr. Maynard directed both parties that the complaint and investigation were private and confidential, pursuant to s. 4.5(c) of the Code of Conduct's Complaints Protocol, and that they were required to maintain confidentiality in order to preserve the integrity of the investigative process.

The Complainant wrote to our Office twice the next morning (October 27, 2023), stating in the first:

It's going to get worse for me. I guarantee this is about me. She will release my name and it will get worse for me and my family again.

He attached to that message a post from Trustee Stone (Appendix 4):

The harassment of code of conduct complaints is too much. A new one from a well known person.

Later that morning, the Complainant wrote in his second message:

Here she goes. [REDACTED] This is her way of identifying me without actually saying my name online. It's just going to continue.

He attached a second post from Trustee Stone (Appendix 5), which based on the screen captures she appears to have posted approximately 45 minutes³ after the previous post:

You win Pflag. I'm done.

That afternoon, Mr. Maynard wrote to the Complainant asking him to describe the impact of the conduct upon him. The Complainant replied:

³ As determined from the timestamps of the screenshots, compared to the elapsed times displayed on the posts themselves.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Complainant submitted a series of screen captures showing posts involving him, Trustee Stone, and others from the Facebook group 'Parents of Durham District School Board', and a post from the Facebook group 'DDSB Concerned Parents'.

Response

Trustee Stone elected not to submit a written response, but submitted weeks later that the Complainant hadn't in fact changed his last name on X, and submitted a screen capture to that effect. Both parties were invited for a telephone interview with Mr. Maynard.

Interviews*Complainant*

The Complainant told Mr. Maynard that Trustee Stone is always calling him out by name. He said Pflag was invited to a meeting of unions, which he and the Pflag Durham President attended, but he asserted that he said nothing there because it concerned union matters and he isn't a union member. However, according to the Complainant, Trustee Stone frequently draws a line between him, the Pflag Durham President, Pflag, and that meeting. He said Trustee Stone gets people going, and a member of the public accused him of transitioning his son.

The Complainant said Trustee Stone can call out Pflag if she wants to, but it became a problem when she started making it personal and calling him out by name online. He said he is getting complaints at work, Pflag got complaints, and as a DDSB parent he didn't think Trustee Stone should be able to call him out by name.

Trustee Stone

Trustee Stone told Mr. Maynard she has no control over what other people say or post. She said she knows the Complainant has a son, used to be a Principal, and is on the Board of Pflag. She said the Complainant has been following her everywhere on social media for a couple of years and interrupts her conversations. She said the Complainant was on a union-led Zoom meeting where parents were called things like 'transphobes', so she asked him to apologize – the union let parents be slandered on that call with inappropriate language, and the Complainant never spoke up, so Trustee Stone wanted him to take responsibility for being part of the call.

Trustee Stone didn't recall the context of any of her posts but thought Pflag might have said something egregious or interjected themselves into her conversations. She didn't think it was against the law to use somebody's name, and her comments weren't "calling out" the Complainant or Pflag Durham President, but rather were part of the conversation.

Analysis

These complaints should appropriately be analyzed in two timeframes – (a) the subject matter of the original October 24, 2023 complaint, and (b) what took place after Mr. Maynard formally notified the parties that this investigation would be

proceeding.

Initial Complaint

The Complainant's original complaints were that he had been harassed online on multiple Facebook pages, [REDACTED]

[REDACTED] – essentially, he disputed being named personally in any of Trustee Stone's posts.

While we don't suggest this was necessarily commendable conduct by Trustee Stone, we are not satisfied that the act of merely naming the Complainant in social media posts (at least not those furnished as evidence in this case) breached any of sections 6.44, 6.45, or 6.46 of the Code of Conduct. In our opinion, Trustee Stone's comments naming the Complainant were not patently discriminatory or harassing. They appeared largely to reflect policy disagreements about sexual orientation and gender identity issues. We acknowledge that Trustee Stone has been found in breach of the Code of Conduct before for making statements disrespectful of trans individuals, so her approach to that subject matter has been historically problematic. But with one exception, we don't find the present comments egregious to the degree of previous instances, which clearly violated the Code of Conduct. As a matter of procedural fairness, we must attempt restraint against imputing the history into the analysis of new comments.

In a vacuum, we agree with Trustee Stone that there is no clear law or policy preventing the mere mentioning of any individual by name. We furthermore do not find that it was demonstrably done with such frequency or volume that it would reasonably constitute harassment. To a certain extent, we must consider the nature of social media and the dynamic of how online communities engage people in discussion. While we accept the Complainant's assertion that he is not the "leader" of Pflag, he is on its Board and is thus reasonably connected to it, and that appears to be public knowledge to some degree.

However, notwithstanding the above analysis, a particular comment stands out as patently disrespectful. Trustee Stone directly named the Complainant and Pflag Durham President, and asked "Why don't you care about kids?" That is quite different from rhetorically asking why an organization does not care about children (which she also did), and different from merely naming someone to engage them in debate, which we found to be the case in most of her other posts. In this one instance, Trustee Stone rhetorically accused the Complainant (a parent of a DDSB student) of not caring about children. It was clearly disrespectful language,

coming from a school board Trustee, and offered nothing valuable to public discourse. It was personally demeaning to a member of the public and was accordingly a violation of section 6.44 of the Code.

We note that section 6.44 requires Trustees to: “*treat members of the public [...] respectfully,*” on top of avoiding harassing and/or discriminatory conduct. Conduct does not need to rise to harassing or discriminatory levels to be simply disrespectful, and we find it clear that Trustee Stone acted disrespectfully in rhetorically accusing the Complainant of not caring about kids.

Reprisal Against Complainant

Different concerns began arising shortly after Mr. Maynard commenced this investigation on October 26, 2023. Mr. Maynard specifically directed both parties to maintain confidentiality respecting the matter – which is a standard, legislated protocol in all of our Office’s investigations. The evidence shows that Trustee Stone posted “The harassment of code of conduct complaints is too much. A new one from a well known person”, and approximately 45 minutes later “You win Pflag. I’m done.” Shortly thereafter she appeared to have deleted her Facebook account, which made it challenging to corroborate some of the evidence in this case.

One of the most important reasons complaints to an Integrity Commissioner must be kept confidential is to protect complainants within a politicized environment. A potential harm from the existence of complaints being disclosed is supporters of an elected official could act inappropriately on their own towards a complainant in retaliation for the complaint, thereby making the process deeply unpleasurable for complainants, and potentially creating a chilling effect on issues becoming raised that may be appropriate to address.

[REDACTED]

The posts were too connected and too close in time to suggest that the connection

was difficult to make. We believe this was probably deliberate, but even if it wasn't, it was still deeply irresponsible.

Importantly, sections 6.47 and 6.48 of the Code of Conduct state:

Reprisals and Obstruction

6.47 Trustees must respect the integrity of this Code of Conduct and are obliged to cooperate with inquiries conducted in accordance with the Complaints Protocol and any other procedures set by the Board for addressing complaints of a breach of this Code of Conduct. Any reprisal or threat of reprisal against a complainant or anyone else for providing relevant information to the Integrity Commissioner is prohibited. It is a violation of this Code of Conduct to obstruct the Integrity Commissioner in carrying out the duties of that office.

6.48 Trustees shall be respectful of the role of the Integrity Commissioner.

Sections 6.47 and 6.48 are revised versions of the former sections 6.53 and 6.54. We issued a Report respecting a former DDSB Trustee on June 6, 2022, within which we stated:⁴

We find that [Then-DDSB Trustee] breached section 6.53 by his threats and generally inappropriate conduct towards the Complainants shortly after they filed their requests for investigation. ... [T]he original communications themselves were clear breaches of section 6.53.

We note that sections 6.53 and 6.54 of the Code of Conduct are procedural obligations incumbent upon all Trustees, as opposed to substantive ones. Accordingly, it is unnecessary to receive formal complaints about such matters, as in many cases (and particularly respecting section 6.54) complainants may not even be aware of a respondent's inappropriate procedural behaviour. But there is no question that the complainants in this case were both disturbed by [Then-DDSB Trustee's] responses to their complaints. ... There is simply no place for such threats of reprisals in the context of a Code of Conduct investigation, and no prior warning was necessary for this conduct to have been improper.

It is clear from this past finding that the Complainant did not need to formally raise section 6.47 in his original complaint in order for it to be important and

⁴ <https://calendar.ddsb.ca/meetings/Detail/2022-06-27-0900-Special-Board-Meeting/9ee915ab-0560-4787-bd64-aebd0103082c>

investigable.

The variety of information in Appendix 6, even though it all or mostly pre-dated October 27, 2023, satisfies us that the Complainant received negative attention from the community. Trustee Stone clearly knew this, if not from her own social media activity, then at least from having received this complaint. There was always a strong possibility that such attention could increase after Trustee Stone mentioned the Code of Conduct complaint and hinted strongly at who made it.

We accordingly accept from the evidence that Trustee Stone publicizing that she had received a Code of Conduct complaint from a “well known individual” – probably connected to Pflag – could have easily led to retaliatory comments towards the Complainant and his family, among others. Whether retaliation from the community in fact happened is not determinative, and we did not even seek any follow-up evidence on point. The evidence strongly suggests that Trustee Stone engaged in a thinly veiled attempt to bring negative attention to the Complainant and an associate, which is sufficient in itself to violate the Code. In effect, the potential (and in our view, likely intended) impact of this activity constituted a reprisal – i.e., negative actions or consequences towards the complainant or loved ones for having initiated this Code of Conduct complaint. Reprisals are not permitted under the Code of Conduct, and for good reason – failure to protect against such conduct would render the system vulnerable to attacks that would ultimately stifle complainants. From another angle, it is difficult to imagine the range of behaviour that could become functionally accepted if this type of conduct was not considered to breach the Code of Conduct in itself.

Decision and Publication

We find that Trustee Stone breached section 6.44 of the *Code of Conduct* by writing disrespectfully about the complainant – i.e., stating rhetorically that he does not care about kids.

We find that Trustee Stone subsequently breached section 6.47 of the *Code of Conduct* by publicizing the complaint against her on or about October 27, 2023 – and particularly by doing so in a manner that would make it easy for others to infer the complainant’s identity. We are satisfied that this breach of confidentiality could have (and well might have) led to negative consequences for the Complainant. At the very least, we accept the Complainant’s own indication that the Trustee’s actions caused him to feel genuinely threatened.

Though it is not a requirement under the DDSB's policies, Trustee Stone received an advance draft of this report containing the above findings and was invited to provide comments thereon for our consideration prior to the finalization and publication of this report. She did not provide any comments to our office.

Section 7 of the DDSB's *Code of Conduct* states the following:

7.0 Sanctions

7.1 If the Integrity Commissioner determines that the Trustee has breached this Code of Conduct, the Integrity Commissioner shall report to the Board of Trustees reciting the findings of the Integrity Commissioner. The Board of Trustees shall consider the report of the Integrity Commissioner and the Board of Trustees shall make its own assessment and determination of whether there has been a breach of the Code of Conduct and, if so, may impose one or more sanctions as provided for in section 218.3 of the Education Act, as may be amended from time to time. The Board has no power to declare the Trustee's seat vacant.

Section 218.3(3) of the *Education Act*⁵ allows the following:

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

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

Trustee Stone continues to demonstrate a cavalier attitude about her codified responsibilities concerning respectful communication, particularly online via social media. Furthermore, she has shown disregard for this process by engaging in conduct which, in our view, was a thinly veiled attempt at reprisal against a complainant. This conduct is disturbing and unacceptable.

Accordingly, the Integrity Commissioner recommends the following sanctions:

⁵ *Education Act*, R.S.O. 1990, c. E.2

1. That the board censure Trustee Stone.
2. That the board bar Trustee Stone from attending one meeting of the board.
3. That the board bar Trustee Stone from sitting on all committees of the board for an additional three months (i.e., add three months to the existing and ongoing sanction imposed by the board as a result of previous infractions).

We thank the parties for their participation in this complaints process.

Respectfully submitted by,



Michael L. Maynard
Integrity Commissioner



Benjamin Drory
Senior Investigator

APPENDIX 1

10:13



<  **Linda Stone**
1h · 



<https://x.com/PFLAGDurham/status/1705606231782486066?s=20>

Here's what Pflag has to say about my posts. They are definitely on the wrong side of history here. Why don't they care about children?



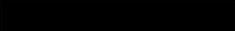
Enough is Enough. Stop the sexual orientation and gender identity indoctrination of children.

twitter.com
PFLAG Canada Durham on X

 Like

 Share

Most relevant ▾

  Author
Linda Stone
Lol Is this coming from 
 who were both on the secret zoom meeting with unions calling parents fascists, hateful etc. So much for love is love. They just keep coming after me. Why don't you care about kids?
1h Like



APPENDIX 2

9:07



Linda Stone

3d · 🌐



[https://x.com/\[redacted\]:status/1706134275932803206?s=20](https://x.com/[redacted]:status/1706134275932803206?s=20)

Please watch. Should be shown in schools. Detransitioner who was influenced by social media to transition. Stop harming children. Egale, Pflag, unions do you hear this?



👍 Like

➦ Share

👍 1

Most relevant ▾



✍ Author

Linda Stone

Hey Egale, Pflag [redacted], unions, is this what you want for children? Is this what you are pushing for in schools? Irreversible Damage...read the book. Lost in Trans Nation...read the book. Enough is enough.

3d Like

3 👍 😂

APPENDIX 3

9:23 LTE

Linda Stone
15h ·

both were on that horrible zoom call with union execs. Do you apologize to parents or stand by what was said?

Like Share

6

Most relevant ▾

14h Like 2

replied · 1 reply

They aren't apologetic about anything. They block or vilify anyone who questions what they're doing. They have corrupted agencies, schools and other establishments in our communities with their activism and if you dare not support them, you will be shamed and outed as a trans/homophobe bigot with no further discussion. They know exactly what they are doing and who they are influencing. The fact that they are encouraging and supporting the transitioning of Durham youth (and beyond) shows you they don't see the error in their ways. They want more people to be like they/them. Children are the easiest target, alongside our vulnerable autistic (neurodivergent) community, that is also being

APPENDIX 4

10:31



<  Linda Stone
34m · 



**The harassment of
code of conduct
complaints is too much.
A new one from a well
known person.**

 Like

 Share

 1

Most relevant ▾



 Author
Linda Stone

H [redacted] your love and concern is much appreciated.

8m Like

[redacted] Please share who. Concerned parents would like to know who's trying to bully you into submission.

29m Like

1 😲

 Author
Linda Stone
[redacted] Can't say at this point.

7m Like

1 👍

10:31

📶 LTE 🔋

<  **Linda Stone**
34m · 🌐 ...

 Author
Linda Stone
[redacted] Can't say at this point.

7m Like

1 👍

 Author
Linda Stone

Thank you for your support. I am very troubles both physically and mentally now by the harassment. Some people are incapable of love, understanding, just always in attack mode.

6m Like



Wow [redacted] That's rich coming from someone who openly smears Linda's name on her social media platforms.

5m Like



[Linda Stone](#) Your health is the most important. Lay low if you need to. Reach out anytime if you need support.

2m Like



 Author

Linda Stone

[redacted] please pray for me. I am not well right now.

1m Like



 Author

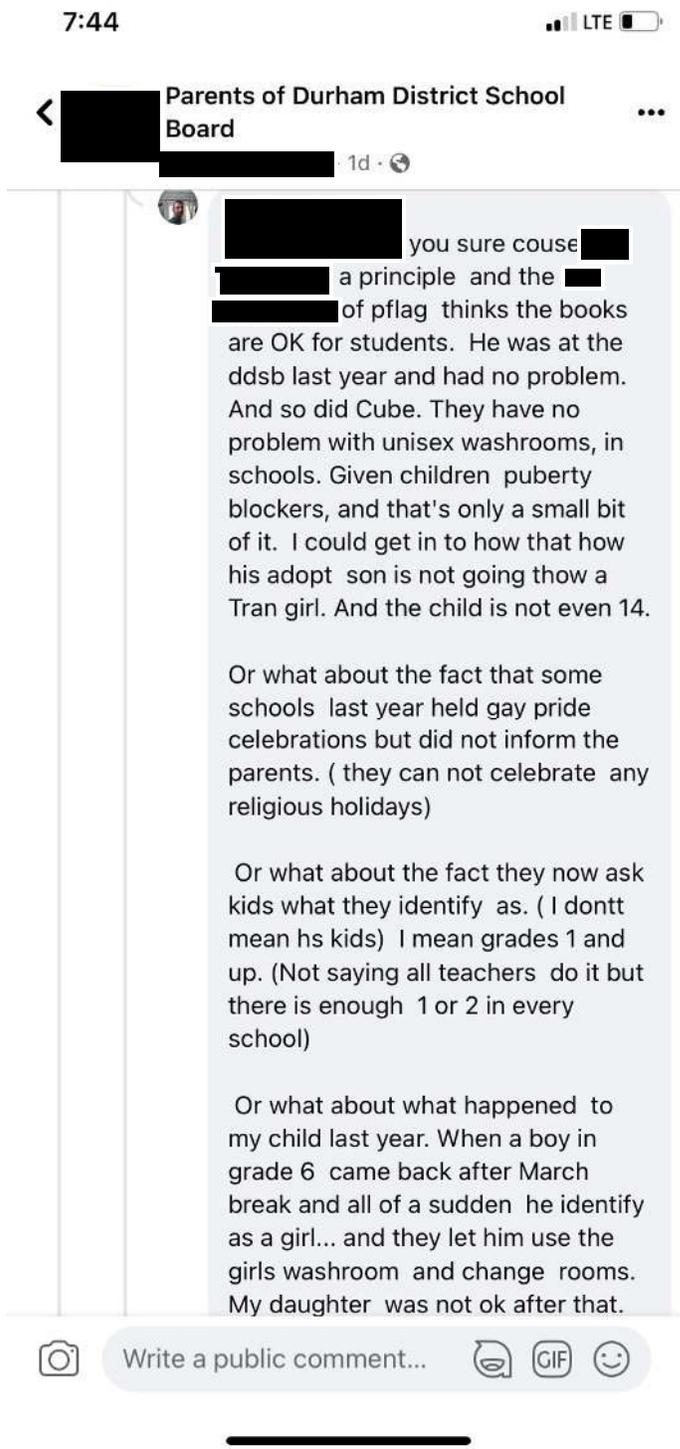
Linda Stone

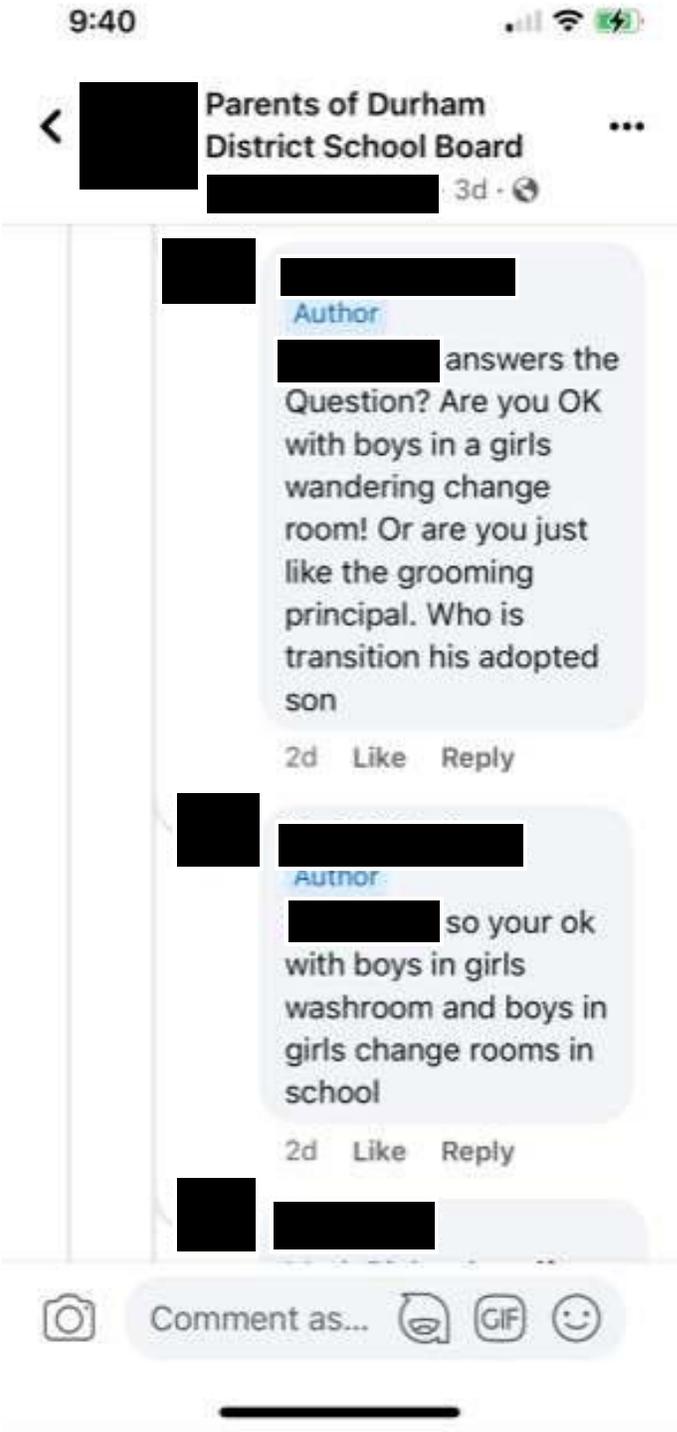
[redacted] Thank you. I have to now.

APPENDIX 5



APPENDIX 6

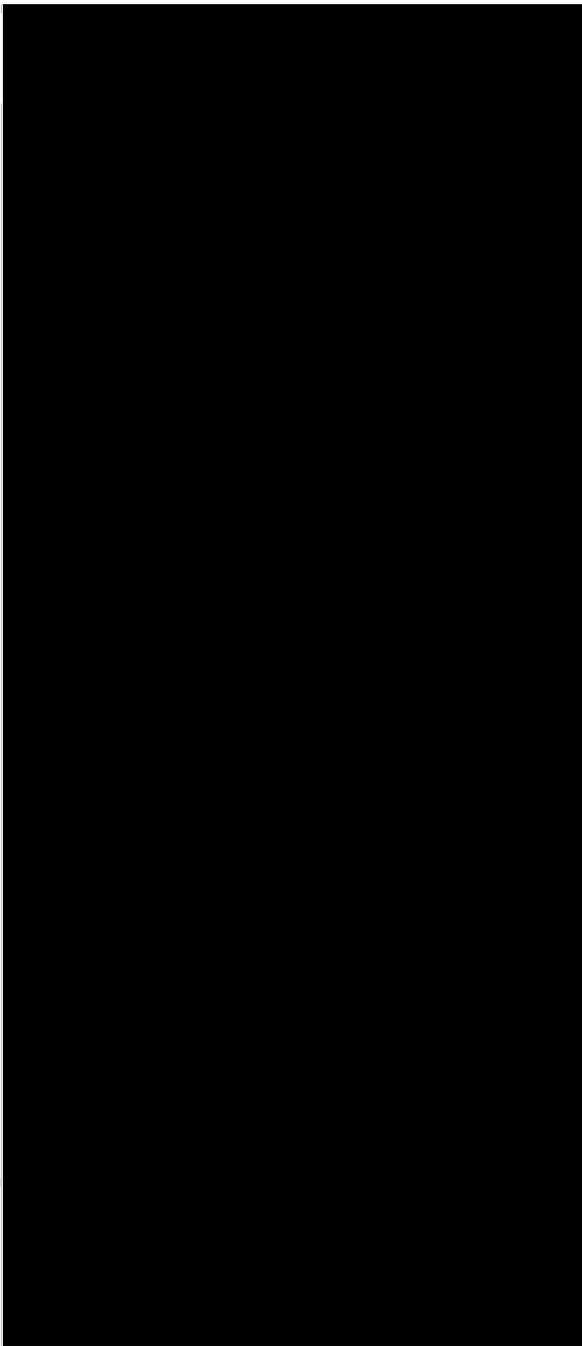




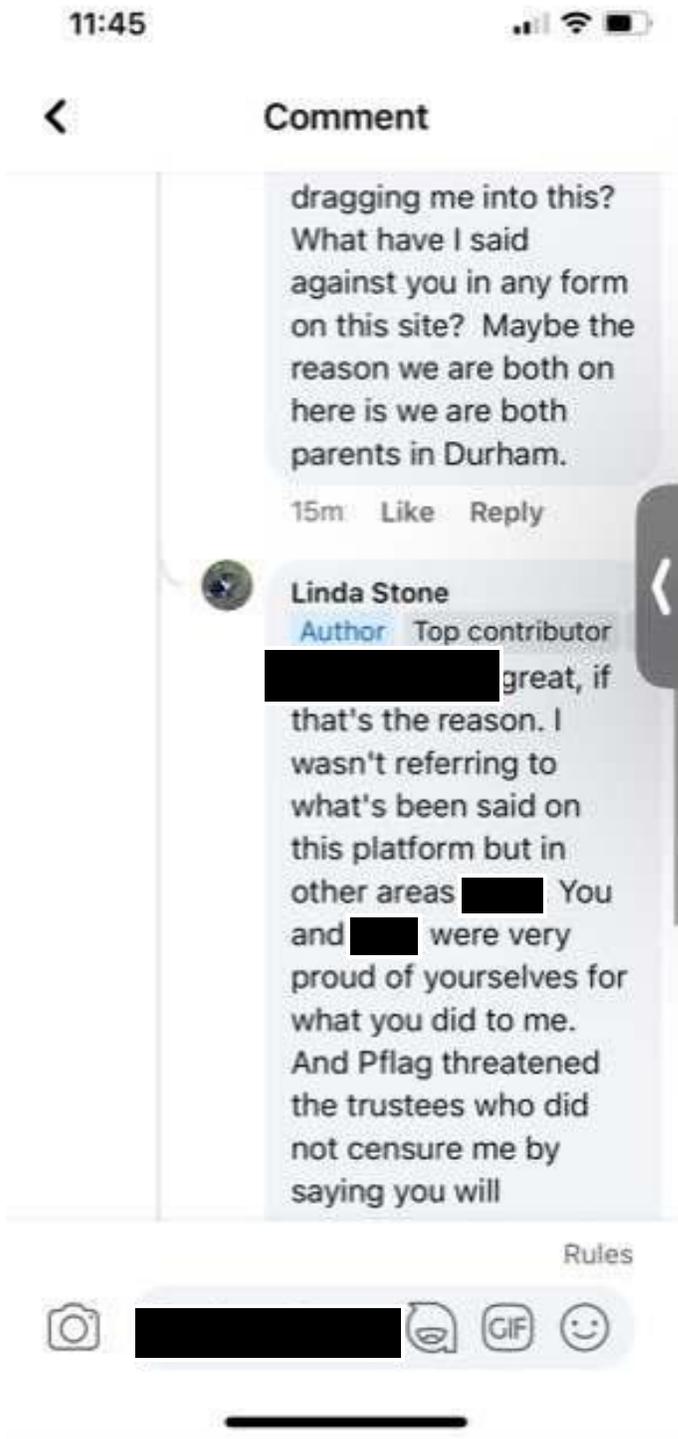
9:42



Comment











7:05

55



Linda Stone



Posts

Photos

yet. It will be very interesting when they do.

1

Like

Share



Linda Stone

9h · [globe icon]

Don't expect any IC complaints from [redacted] At least they entered a discussion and shared thoughts and opinions. Hope they now understand not everyone will agree with them and that's okay.

1

Like

Share



Linda Stone

11h · [globe icon]

Add friend

Message



Home



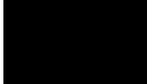
Video

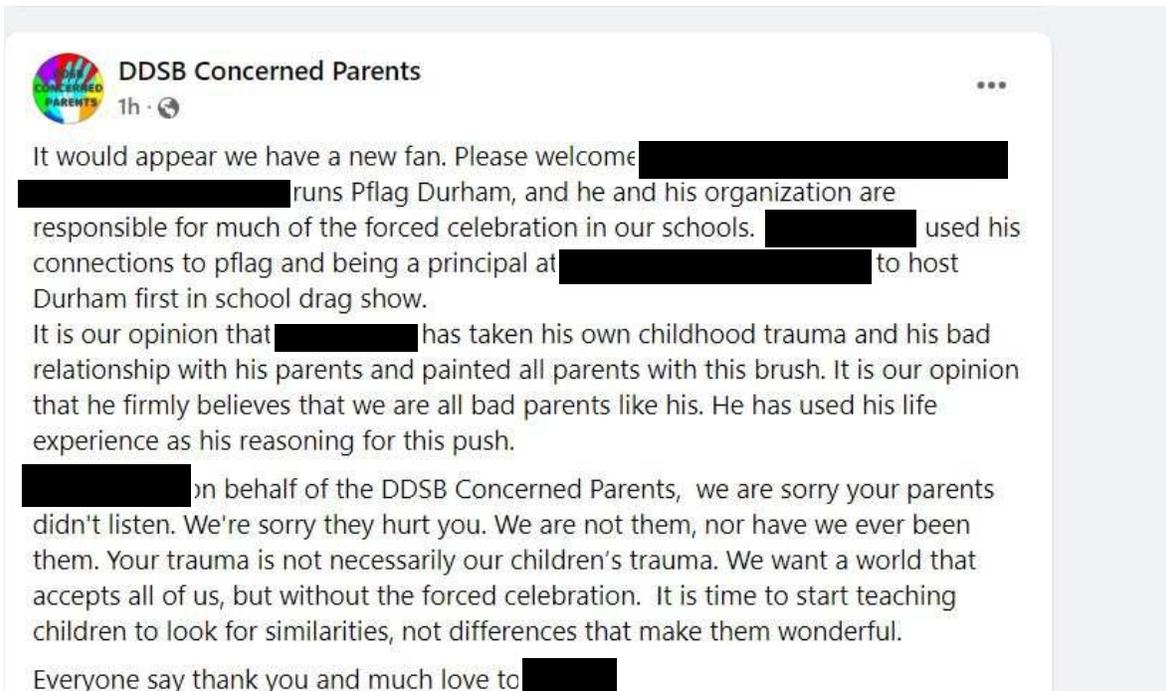


Marketplace



Notifications





The image shows a screenshot of a Facebook post from a group named "DDSB Concerned Parents". The post is dated "1h" and is public. The text of the post is as follows:

It would appear we have a new fan. Please welcome [REDACTED]
[REDACTED] runs Pflag Durham, and he and his organization are responsible for much of the forced celebration in our schools. [REDACTED] used his connections to pflag and being a principal at [REDACTED] to host Durham first in school drag show.

It is our opinion that [REDACTED] has taken his own childhood trauma and his bad relationship with his parents and painted all parents with this brush. It is our opinion that he firmly believes that we are all bad parents like his. He has used his life experience as his reasoning for this push.

[REDACTED] on behalf of the DDSB Concerned Parents, we are sorry your parents didn't listen. We're sorry they hurt you. We are not them, nor have we ever been them. Your trauma is not necessarily our children's trauma. We want a world that accepts all of us, but without the forced celebration. It is time to start teaching children to look for similarities, not differences that make them wonderful.

Everyone say thank you and much love to [REDACTED]



ADR
C H A M B E R S

Integrity Commissioner Office
for Durham District School Board

MICHAEL L. MAYNARD
Integrity Commissioner
E-mail: mmaynard@adr.ca

February 2, 2024

SENT BY EMAIL TO:

**Office of the Executive Director,
Ontario Principals' Council**

And To:

Trustee Linda Stone

**Cc: DDSB Board of Trustees
c/o Chair Christine Thatcher and Patrick Cotter (General Counsel)**

**Re: Code of Conduct Complaint IC-27287-1023
*Ontario Principals' Council (Executive Director) re: Trustee Stone***

Introduction

This is my report respecting a complaint ("Complaint") brought by the Ontario Principals' Council ("OPC"), via its Executive Director ("Complainant"), against Trustee Linda Stone ("Respondent" or "Trustee Stone") (collectively, the "Parties"), under the DDSB's School Board Member (Trustee) Code of Conduct (the "Code of Conduct" or "Code"), dated and received October 16, 2023.

During the investigation I reviewed the Complaint, the Code, the *Education Act*, the DDSB's Human Rights Policy, the *Ontario Human Rights Code*, and documentary and oral evidence provided by the Parties.

Complaint and Investigation

The Complaint alleged as follows, together with photographic supporting evidence, for which I provide a screen capture (Figure 1) beneath the allegation:

“On October 1, 2023, the Ontario Principals’ Council issued a statement on X, formerly known as Twitter. I then became aware that Ms. Linda Stone shared our statement on her public Facebook page with a derogatory comment that reads, “From principals who don’t care that October is Women’s History month.” This trustee’s comment in reference to OPC’s acknowledgement of the 2SLGBTQQIA+ history month encourages disrespect and bias against the 2SLGBTQQIA community.”

[Figure 1]:



The Complainant asserted that Trustee Stone contravened sections 6.44, 6.45, and 6.46 of the Code,¹ which read as follows:

¹ <https://www.ddsb.ca/en/about-ddsb/resources/Documents/IntegrityCommissioner/Board-Member-Trustee-Code-of-Conduct-Appendix-A-0-0-2.pdf>

Discreditable Conduct

6.44 *All Trustees have a duty to treat members of the public, one another, and staff members respectfully and free from discrimination and harassment. This applies to all forms of written and oral communications, including via social media.*

6.45 *DDSB ... Human Rights policies and the Ontario Human Rights Code ... apply to the conduct of members which occurs in the course of, or is related to, the performance of official business and duties of Trustees, and to that extent are incorporated into and form part of this Code of Conduct. ...*

Failure to Adhere to the Board Policies and Procedures

6.46 *Trustees are required to observe the terms of all policies and procedures established by the Board that apply to members of the Board.*

I furnished Trustee Stone with a copy of the Complaint on October 24, 2023, and provided her with a 10-day period to submit a formal written Response, which she did not provide. However, Trustee Stone indicated that she would attend an interview. Owing to scheduling constraints, I spoke with her first.

Interviews***Trustee Stone***

Trustee Stone stated “Of all the posts that I make, this was a bad one. I totally agree. I should not have put that out.” She acknowledged that she posted hastily and without full knowledge of the situation. She explained that some parents had brought the OPC’s post to her attention, and she assumed they had already checked whether the OPC had also acknowledged Women’s History Month. Her working assumption was that the OPC had ignored Women’s History Month (also October), while still posting about 2SLGBTQQIA+ History Month. Sometime after her post, she went on X and observed that the OPC had in fact already recognized Women’s History Month prior to posting about 2SLGBTQQIA+ History Month, and had also posted about Breast Cancer Awareness Month. Trustee Stone accordingly added a supplementary comment to her initial post in which she acknowledged her error. She later deleted the post entirely after receiving this Complaint, although she thought (seemingly mistakenly) that she had deleted it earlier.

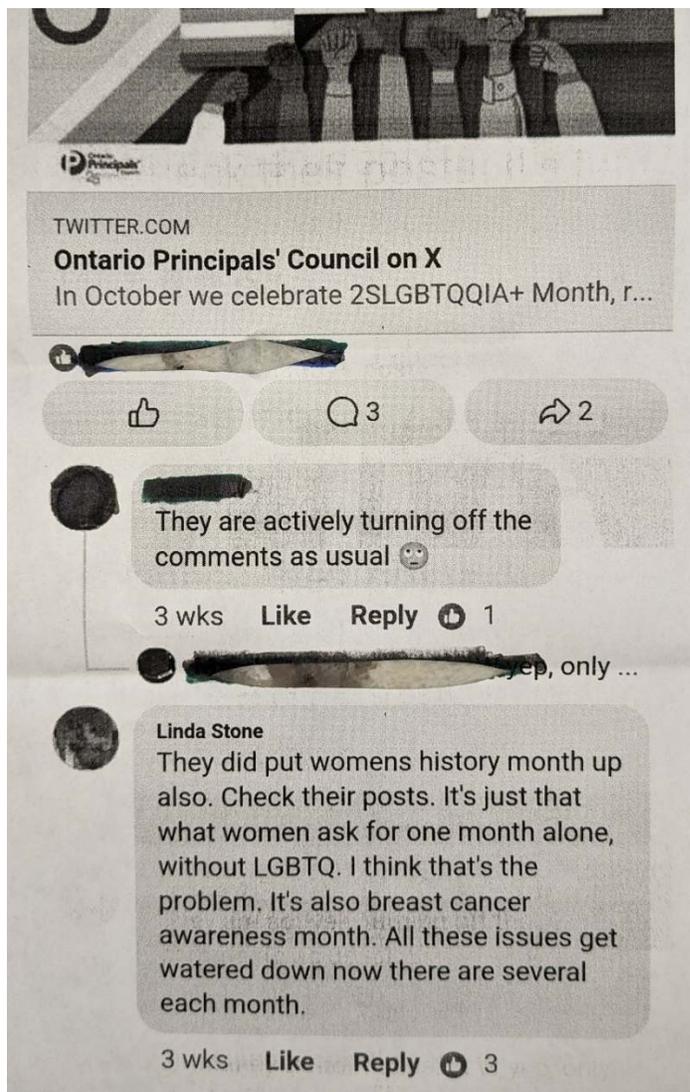
Trustee Stone acknowledged feeling badly about putting out the impugned message. She said she posted a public apology (prior to receiving the Complaint),

which she left up for about a week, and then she closed her Facebook account, resulting in all of her posts being removed. She was willing to apologize to the Complainant directly if given the opportunity through a facilitated discussion.

Trustee Stone expressed surprise at herself for the impugned post because she is “forever touting the praises of principals and standing up for them.” She believed she “got caught up in conversation with parents who were frustrated,” and acknowledged that it was her fault for “not looking first before saying something.”

Trustee Stone provided me with a photograph (Figure 2) of the impugned post and her follow-up comment, which I accept as evidence supporting her oral statements.

[Figure 2]:



The comment in Figure 2 reads:

“They did put womens [sic] history month up also. Check their posts. It’s just that what women ask for one month alone, without LGBTQ. I think that’s the problem. It’s also breast cancer awareness month. All these issues get watered down now there are several each month.”

Complainant

The Complainant opined that the Complaint was less about the OPC as an organization, and more about its members and their human rights. She said 2SLGBTQQA+ members were “*feeling attacked*”, and Trustee Stone’s comment was “*insulting to members, who are staff*” (i.e., of the DDSB).

I discussed the possibility of a facilitated discussion between the Complainant and Trustee Stone, but the OPC ultimately determined that this formal inquiry should proceed².

Analysis and Findings

This case is relatively straightforward, as the facts are not in dispute. Both Parties agree that the post was problematic, although they differ in how they view the nature and extent of the problem.

I acknowledge that Trustee Stone attempted to correct her original statement by posting a follow-up comment – although even that contained a partial justification for her initial post. Trustee Stone also claimed to have posted a separate apology, although it is no longer publicly accessible. I commend her contrition in this case. However, the core issue before me is unfortunately a recurring one.

Trustee Stone rhetorically accused OPC members of not caring about Women’s History Month – a recklessly reactive claim that was easily disproven. Her post was seen by some members of the public and was disrespectful towards the OPC and its members – some of whom are DDSB staff.

It is yet another example of Trustee Stone offering vexatious commentary related to 2SLGBTQQA+ issues. Her post was divisive, and probably further marginalized that equity-seeking group. Her follow-up comment, although ostensibly intended to retract the initial post, provides an interesting insight. Trustee Stone asserted

² This was communicated to me on December 19, 2024.

that women (in general, apparently) want a month “without LGBTQ” – notwithstanding that many “LGBTQ” issues intersect with many women’s issues. She suggested that multiple causes being recognized in the same month waters down the issues, ignoring that there are more issues than months, and many celebrations, holidays, and recognition periods overlap. One could reasonably infer that Trustee Stone not only views women’s rights as totally separate and distinct from the 2SLGBTQIA+ community, but that they are in fact in competition with each other.

Trustee Stone offered no form of constructive commentary, and certainly no suggestion about how both women’s history and 2SLGBTQIA+ history could be equitably recognized. Instead, she concluded that because the OPC seemingly recognized one equity-seeking group, they must not care about the other equity-seeking group. The claim is made more absurd by the fact that the OPC actually posted about Women’s History Month seven minutes before posting about 2SLGBTQIA+ History Month. For the record, they also posted about each of Latin American Heritage Month, Islamic Heritage Month, and National Seniors’ Day before 9:09 a.m. on Sunday, October 1st – which can be viewed on their public X feed,³ and all of which would have been visible at the time. None of these received the same negative attention.

I believe the problem runs deeper than Trustee Stone’s negative reaction to easily avoided misinformation. Apart from its basic rudeness, it imbedded a false dichotomy in which the rights of two groups were placed in a hierarchy that rejected their intersectionality – and in doing so was not in keeping with the spirit of the Board’s Human Rights Policy⁴. While not a glaring case of overt discrimination, it was nevertheless problematic in its discriminatory implication. I agree with the Complainant that it encouraged disrespect for the rights of people who identify within the 2SLGBTQIA+ community, partly from the negative attention it would draw, and additionally from the fabricated conflict it attempted to construct between the 2SLGBTQIA+ community and women generally.

Discrimination under the Board’s Human Rights Policy is defined, in part, as:

[...] any practice or behaviour, whether intentional or not, which results in a person or group experiencing differential or inequitable treatment [...] based on one or more of the Prohibited Grounds of discrimination under the Human

³ <https://x.com/OPCCouncil?s=20>

⁴ https://durhamschboard.service-now.com/sys_attachment.do?sys_id=952271e647631d50297bf768536d43da&view=true

Rights Code and this policy [...].

I also find section 1.2 of the Board's Human Rights Policy to be pertinent:
[emphasis added]

1.2 *In this policy and related procedures, "discrimination" means all forms of individual, intersectional and systemic discrimination in respect of any of the Prohibited Grounds (as defined in this policy). There is no hierarchy of rights. The policy applies equally to all Prohibited Grounds and combination of grounds and applies to all forms of discrimination, including (and not limited to) racism, ableism, sexism, homophobia, biphobia, transphobia, faithism and classism.*

In view of the above, I accordingly find that Trustee Stone breached section 6.44 of the Code of Conduct, as she overtly failed to meet the required standard of respectfulness.

I also accept the Complainant's assertion that Trustee Stone's post was probably harmful to members of the 2SLGBTQIA+ community, by needlessly poisoning a positive and inclusive message published by the OPC in support of that equity-seeking group. Regardless of intention, it was discriminatory at its core, and therefore contrary to the Board's Human Rights Policy and the Code. In breaching the terms of the DDSB's Human Rights Policy, Trustee Stone therefore also breached section 6.46 of the Code of Conduct.

Section 6.45 does not appear to create a rule capable of being breached, but rather states that Trustees are subject to the Board's Human Rights Policy via the Code of Conduct and the Integrity Commissioner. Its application in practice is subsumed by section 6.46, which I have noted above.

Decision and Publication

I find that Trustee Stone breached sections 6.44 and 6.46 of the Code of Conduct and recommend that the Board of Trustees make the same finding.

Though it is not a requirement under the DDSB's policies, Trustee Stone received an advance draft⁵ of this report containing my findings and was invited to provide comments for my consideration prior to the finalization and publication of this

⁵ This final report contains some non-substantive structural and copy-editing revisions that do not alter the findings contained in the earlier draft.

report. She did not provide any comments.

Section 7 of the Code provides as follows:

7.0 Sanctions

7.1 If the Integrity Commissioner determines that the Trustee has breached this Code of Conduct, the Integrity Commissioner shall report to the Board of Trustees reciting the findings of the Integrity Commissioner. The Board of Trustees shall consider the report of the Integrity Commissioner and the Board of Trustees shall make its own assessment and determination of whether there has been a breach of the Code of Conduct and, if so, may impose one or more sanctions as provided for in section 218.3 of the Education Act, as may be amended from time to time. The Board has no power to declare the Trustee's seat vacant.

Section 218.3(3) of the *Education Act*⁶ prescribes:

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

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

I recommend as follows:

1. That the board censure Trustee Stone.
2. That the board bar Trustee Stone from attending one meeting of the board.
3. That the board bar Trustee Stone from sitting on all committees of the board for an additional three months (i.e., cumulative to any sanction(s) of this type that may be in place respecting other Code of Conduct matters considered by the Board).

⁶ *Education Act*, R.S.O. 1990, c. E.2

As indicated in this report, Trustee Stone has shown some remorse concerning her conduct towards the OPC and its members. The Board might consider this when deliberating sanctions in this case.

I ask that this report be placed on a public agenda of the Board to be considered in open session. It is to remain confidential until published by the Board.

I thank the Parties for their participation in this complaint process.

Respectfully,

A handwritten signature in black ink, appearing to read "M. Maynard", with a long, sweeping flourish extending to the right.

Michael L. Maynard
Integrity Commissioner