



DURHAM DISTRICT SCHOOL BOARD

SPECIAL BOARD MEETING
Tuesday, September 3, 2024
6:30 p.m.

	PAGE
1. <u>Call to Order</u>	Verbal
2. <u>Land Acknowledgement</u>	
<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) Amendments to Bylaws (Attendance) (General Counsel Patrick Cotter)	1-15
(b) Amendments to Board Member Code of Conduct (General Counsel Patrick Cotter)	16-23
6. <u>Adjournment</u>	Verbal

**DURHAM DISTRICT SCHOOL BOARD
ADMINISTRATIVE REPORT**

REPORT TO: Durham District School Board **DATE:** September 3, 2024
SUBJECT: Amendments to Bylaws (Attendance) **PAGE:** 1 of 2
ORIGIN: Camille Williams-Taylor, Director of Education and Secretary to the Board
Patrick Cotter, General Counsel

1.0 Purpose

The purpose of this report is to seek the Board of Trustees' approval of amendments to the Board's consolidated Bylaws.

2.0 Background and Analysis

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

The Durham District School Board is committed to providing learning and working environments that centre human rights and equity and are safe, welcoming, respectful, equitable, accessible, inclusive, and free from all forms of discrimination, oppression, harassment, and harm.

On July 29, 2024, the Ministry of Education filed O. Reg. regulations 313/24 under the Education Act which amended O. Reg 463/97: Electronic Meetings and Meeting Attendance. The revised regulations are included as Appendix A. To ensure compliance with the revised regulation, applicable sections of the Board's Consolidated Bylaws have been amended and are included as Appendix B. In particular, significant changes are required to sections 5.7 and 5.8 (meeting attendance) and section 9 (electronic meetings). You will note on the enclosed, that it is contemplated that section 9 be deleted and that all requirements around meeting attendance and electronic participation be incorporated into a new section 5.7.

The new requirements call for in-person trustee attendance at board meetings such that all trustees must be physically present for each regular board meeting and regular committee of the whole meeting, unless prior approval is received from the Chair to participate electronically. Changes to the regulation will take effect in two phases, with the first phase being in-force since now and the second phase coming into force on September 1, 2025. The enclosed changes do not address the changes coming into force in September, 2025. Rather, it is contemplated that those changes would proceed in the normal course through the Governance and Policy Committee.

3.0 Communication Plan

Once adopted, the revised Bylaws will be posted on the DDSB website and circulated by email to trustees.

4.0 Conclusion and/or Recommendations

It is recommended that the Board of Trustees adopt the proposed amendments to the Bylaws as noted in Appendix B of the report.

5.0 Appendices

Appendix A: Ontario Regulations 313/24 and 463/97 (as amended)

Appendix B: Revised Bylaws (tracked changes)

Report reviewed and submitted by:



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



Patrick Cotter, General Counsel

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ONTARIO REGULATION 313/24

made under the

EDUCATION ACT

Made: July 25, 2024

Filed: July 29, 2024

Published on e-Laws: July 30, 2024

Published in *The Ontario Gazette*: August 17, 2024

Amending O. Reg. 463/97

(ELECTRONIC MEETINGS AND MEETING ATTENDANCE)

1. Section 1 of the English version of Ontario Regulation 463/97 is amended by striking out “shall be” and substituting “is”.

2. (1) Paragraph 2 of subsection 3 (1) of the Regulation is amended by striking out “the member or student trustee to hear and be heard by all other participants in the meeting” at the end and substituting “all persons participating in the meeting to communicate with each other simultaneously and instantaneously”.

(2) Section 3 of the Regulation is amended by adding the following subsection:

(4) Despite paragraph 1 of subsection (1), the policy shall include provisions permitting the board to refuse to provide a member with electronic means of participation in a meeting of the board, a meeting of a committee of the whole board or a meeting of any other committee of the board, unless the member has approval under subsection 7 (5) or where to do so is necessary to ensure compliance with section 6 or subsection 7 (8).

(3) Subsection 3 (4) of the Regulation, as made by subsection (2), is amended by striking out “or subsection 7 (8)” at the end.

3. Paragraph 2 of subsection 4 (2) of the Regulation is amended by striking out “members of the public to hear and be heard by all other participants in the meeting” at the end and substituting “all persons participating in the meeting to communicate with each other simultaneously and instantaneously”.

4. Sections 5 to 7 of the Regulation are revoked and the following substituted:

Meetings to be open to the public

5. (1) The board shall ensure that the meeting room of the board or of a committee of the board, as the case may be, shall be open to permit physical attendance by members of the public at every regular meeting of the board or of the committee of the board.

(2) For the purposes of subsection (1), the meeting room of a committee of the whole board is the meeting room of the board.

(3) Subsection (1) does not apply where a meeting is closed to the public in accordance with the Act.

Committee meetings, member attendance

6. (1) The policy shall require that the chair of a committee of the board or their designate be physically present in the meeting room at every regular meeting of the committee of the board, except a committee of the whole board.

(2) Despite subsection (1), the policy may provide that the chair of the committee or their designate may participate in a meeting of the committee of the board by electronic means if another member of the committee, who is also a member of the board, is physically present in the meeting room.

Board meetings, member attendance

7. (1) The policy shall require that all members of the board be physically present in the meeting room of the board at every regular meeting of the board and every regular meeting of a committee of the whole board.

(2) Despite subsection (1), the policy may provide that a member of the board may participate in a meeting described in that subsection by electronic means instead of being physically present if the member receives written approval under subsection (5) before the meeting begins.

(3) If a member of the board proposes to participate in a meeting described in subsection (1) by electronic means, the member shall submit a request in writing and the reasons for the request to the chair of the board before the meeting begins.

(4) If the member of the board making a request under subsection (3) is the chair of the board, the chair shall submit the request and reasons to the vice-chair of the board, or if the board has no vice-chair, to another member of the board.

(5) The chair, vice-chair or other member, as applicable, may approve a request if they are satisfied that one or more of the following circumstances exist:

1. The member's primary place of residence within the area of jurisdiction of the board is located 125 kilometres or more from the meeting location.
2. Weather conditions do not allow the member to travel to the meeting location safely.
3. The member cannot be physically present at a meeting due to health-related issues.
4. The member has a disability that makes it challenging to be physically present at a meeting.
5. The member cannot be physically present due to family responsibilities in respect of,
 - i. the member's spouse,
 - ii. a parent, step-parent or foster parent of the member or the member's spouse,
 - iii. a child, step-child, foster child, or child who is under legal guardianship of the member or the member's spouse,
 - iv. a relative of the member who is dependent on the member for care or assistance, or
 - v. a person who is dependent on the member for care or assistance and who considers the member to be like a family member.

(6) The chair shall not approve a request under subsection (5) if approving the request would result in fewer than one member of the board, in addition to the chair of the board or their delegate, being physically present in the meeting room.

(7) The vice-chair or other member of the board shall not approve a request under subsection (5) unless the chair's designate will be physically present in the meeting room.

(8) If there is a policy described in subsection (2), it shall provide that,

- (a) the chair or designate shall be physically present in the meeting room of the board for at least half of the meetings of the board during each 12-month period beginning November 15, 2022; and
- (b) subject to subsection (9), a member of a board shall be physically present in the meeting room of the board for at least three regular meetings of the board during each 12-month period beginning November 15, 2022.

(9) If a member of a board is elected or appointed to fill a vacancy on or after November 15, 2022, the member shall be physically present in the meeting room of the board for at least one regular meeting of the board for each period of four full calendar months that occurs during the period beginning on the day the member is elected or appointed and ending the following November 14.

(10) Subsection (9) does not apply for a period described in that subsection if, at any time during the period, all schools of the board are closed pursuant to an order referred to in subsection 10 (1).

Board and committee meetings, director of education attendance

8. The policy shall require that the director of education of the board or their designate be physically present in the meeting room for each meeting of the board and each meeting of a committee of a board, including a committee of the whole board.

No failure to be physically present, s. 228 of the Act

9. For greater certainty, the failure to be physically present as required by a policy referred to in subsection 7 (8) does not constitute a failure for the purposes of clause 228 (1) (e) of the Act.

School closures

10. (1) On and after November 15, 2022, despite a policy of a board respecting electronic meetings, the requirements under section 6, subsection 7 (1) and section 8 for persons to be physically present at meetings, and the requirement under section 5, do not apply for the period described in subsection (2) of this section, if all schools of the board are closed under an order made by,

- (a) the Minister under section 5 (1) of the Act;
- (b) a medical officer of health or the Chief Medical Officer of Health under section 22 or 77.1 of the *Health Protection and Promotion Act*;
- (c) the Lieutenant Governor in Council under paragraph 5 of subsection 7.0.2 (4) of the *Emergency Management and Civil Protection Act*; or
- (d) the Lieutenant Governor in Council under clause 4 (1) (a) of the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*.

(2) The period referred to in subsection (1) starts on the day the order is made and ends 60 days after the order ceases to apply.

(3) On and after November 15, 2022, despite a policy of a board respecting electronic meetings, the requirements under subsection 7 (8) for persons to be physically present at meetings do not apply for a period described in that subsection if all schools of the board are closed for a total of two or more months during that period under an order mentioned in subsection (1).

Transition

11. (1) Subsections 7 (8) to (10) and 10 (3) apply, with necessary modifications, for the period that begins November 15, 2024 and ends September 1, 2025.

(2) For greater certainty, if, in accordance with subsection (1), subsection 7 (9) applies to a person, the person shall be physically present in the meeting room of the board for at least three regular meetings of the board during the period described in subsection (1), subject to subsection 7 (10).

5. (1) Subsection 6 (1) of the Regulation, as remade by section 4, is amended by striking out “The policy shall require that the chair of the committee or their designate” at the beginning and substituting “The chair of the committee or their designate shall”.

(2) Subsection 6 (2) of the Regulation, as remade by section 4, is amended by striking out “the policy may provide that”.

6. (1) Subsection 7 (1) of the Regulation, as remade by section 4, is amended by striking out “The policy shall require that all members of the board” at the beginning and substituting “All members of the board shall”.

(2) Subsection 7 (2) of the Regulation, as remade by section 4, is amended by striking out “the policy may provide that”.

(3) Subsections 7 (8) to (10) of the Regulation, as made by section 4, are revoked.

7. Section 8 of the Regulation, as made by section 4, is amended by striking out “The policy shall require that the director of education or their designate” at the beginning and substituting “The director of education or their designate shall”.

8. Sections 9 and 10 of the Regulation, as made by section 4, are revoked and the following substituted:

School closures

9. (1) On and after September 1, 2025, the requirements under sections 6, 7 and 8 for members to be physically present at meetings, and the requirement under section 5, do not apply for the period described in subsection (2) of this section, if all schools of the board are closed pursuant to an order made by,

- (a) the Minister under section 5 (1) of the Act;
- (b) a medical officer of health or the Chief Medical Officer of Health under section 22 or 77.1 of the *Health Protection and Promotion Act*;
- (c) the Lieutenant Governor in Council under paragraph 5 of subsection 7.0.2 (4) of the *Emergency Management and Civil Protection Act*; or
- (d) the Lieutenant Governor in Council under clause 4 (1) (a) of the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*.

(2) The period referred to in subsection (1) is determined as follows:

- 1. If an order is made under subsection (1) before September 1, 2025 and continues to apply on that date, the period starts on September 1, 2025 and ends 60 days after the order ceases to apply.
- 2. If an order is made under subsection (1) on or after September 1, 2025, the period starts on the day the order is made and ends 60 days after the order ceases to apply.

9. Section 11 of the Regulation, as made by section 4, is revoked.

Commencement

10. (1) Except as otherwise provided in this section, this Regulation comes into force on the day it is filed.

(2) Subsection 2 (3) and sections 5 to 9 come into force on September 1, 2025.

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Back to top

Français

Education Act

ONTARIO REGULATION 463/97
ELECTRONIC MEETINGS AND MEETING ATTENDANCE

Consolidation Period: From July 29, 2024 to the [e-Laws currency date](#).

Last amendment: 313/24.

Legislative History: 234/04, 268/06, 293/18, 42/20, 232/20, 632/20 (as am. by 416/21), 416/21, 313/24.

This is the English version of a bilingual regulation.

CONTENTS

1.	Deemed present
2.	Policy re meeting by electronic means
3.	Provision of electronic means
4.	Same, public
5.	Meetings to be open to the public
6.	Committee meetings, member attendance
7.	Board meetings, member attendance
8.	Board and committee meetings, director of education attendance
9.	No failure to be physically present, s. 228 of the Act
9.	School closures
10.	School closures
11.	Transition

Deemed present

1. Subject to any conditions or limitations provided for under the Act or under this Regulation, a member of a board who participates in a meeting through electronic means in accordance with this Regulation is deemed to be present at the meeting for the purposes of every Act. O. Reg. 463/97, s. 1; O. Reg. 234/04, s. 1; O. Reg. 313/24, s. 1.

Policy re meeting by electronic means

2. (1) Every board shall develop and implement a policy providing for the use of electronic means for the holding of meetings of a board and meetings of a committee of a board, including a committee of the whole board. O. Reg. 463/97, s. 2 (1); O. Reg. 234/04, s. 2.

(2) The policy shall be in accordance with this Regulation and with any policies established and guidelines issued by the Minister under paragraph 3.6 of subsection 8 (1) of the Act. O. Reg. 463/97, s. 2 (2).

Provision of electronic means

3. (1) The policy shall provide for the following:

1. At the request of any board member or student trustee, the board shall provide the member or student trustee with electronic means for participating in one or more meetings of the board or of a committee of the board, including a committee of the whole board.
2. The electronic means required by paragraph 1 shall permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously.
3. The electronic means shall be provided in such a way that the rules governing conflict of interest of members are complied with. O. Reg. 463/97, s. 3 (1); O. Reg. 268/06, s. 1 (1, 2); O. Reg. 313/24, s. 2 (1).

(2) The policy shall ensure that student trustees who are participating through electronic means do not participate in any proceedings that are closed to the public under clause 207 (2) (b) of the Act. O. Reg. 268/06, s. 1 (3).

(3) The policy shall ensure that appropriate processes are put in place to ensure the security and confidentiality of proceedings that are closed to the public in accordance with the Act. O. Reg. 293/18, s. 1.

(4) Despite paragraph 1 of subsection (1), the policy shall include provisions permitting the board to refuse to provide a member with electronic means of participation in a meeting of the board, a meeting of a committee of the whole board or a meeting of any other committee of the board, unless the member has approval under subsection 7 (5) or where to do so is necessary to ensure compliance with section 6 or subsection 7 (8). O. Reg. 313/24, s. 2 (2).

Note: On September 1, 2025, subsection 3 (4) of the Regulation is amended by striking out “or subsection 7 (8)” at the end. (See: O. Reg. 313/24, s. 2 (3))

Same, public

4. (1) Subsection (2) applies in respect of meetings of the board or of a committee of the board, including a committee of the whole board, that are open to the public. O. Reg. 463/97, s. 4 (1).

(2) The policy shall provide for the following:

1. The board shall provide members of the public with electronic means for participating in meetings and shall provide for the extent and manner of electronic participation.
2. The electronic means required by paragraph 1 shall permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously.
3. The policy shall ensure that members of the public who are participating through electronic means do not participate in any proceedings that are closed to the public in accordance with the Act. O. Reg. 632/20, s. 1; O. Reg. 313/24, s. 3.

(3) REVOKED: O. Reg. 632/20, s. 1.

Meetings to be open to the public

5. (1) The board shall ensure that the meeting room of the board or of a committee of the board, as the case may be, shall be open to permit physical attendance by members of the public at every regular meeting of the board or of the committee of the board. O. Reg. 313/24, s. 4.

(2) For the purposes of subsection (1), the meeting room of a committee of the whole board is the meeting room of the board. O. Reg. 313/24, s. 4.

(3) Subsection (1) does not apply where a meeting is closed to the public in accordance with the Act. O. Reg. 313/24, s. 4.

Committee meetings, member attendance

6. (1) The policy shall require that the chair of a committee of the board or their designate be physically present in the meeting room at every regular meeting of the committee of the board, except a committee of the whole board. O. Reg. 313/24, s. 4.

Note: On September 1, 2025, subsection 6 (1) of the Regulation is amended by striking out “The policy shall require that the chair of the committee or their designate” at the beginning and substituting “The chair of the committee or their designate shall”. (See: O. Reg. 313/24, s. 5 (1))

(2) Despite subsection (1), the policy may provide that the chair of the committee or their designate may participate in a meeting of the committee of the board by electronic means if another member of the committee, who is also a member of the board, is physically present in the meeting room. O. Reg. 313/24, s. 4.

Note: On September 1, 2025, subsection 6 (2) of the Regulation is amended by striking out “the policy may provide that”. (See: O. Reg. 313/24, s. 5 (2))

Board meetings, member attendance

7. (1) The policy shall require that all members of the board be physically present in the meeting room of the board at every regular meeting of the board and every regular meeting of a committee of the whole board. O. Reg. 313/24, s. 4.

Note: On September 1, 2025, subsection 7 (1) of the Regulation is amended by striking out “The policy shall require that all members of the board” at the beginning and substituting “All members of the board shall”. (See: O. Reg. 313/24, s. 6 (1))

(2) Despite subsection (1), the policy may provide that a member of the board may participate in a meeting described in that subsection by electronic means instead of being physically present if the member receives written approval under subsection (5) before the meeting begins. O. Reg. 313/24, s. 4.

Note: On September 1, 2025, subsection 7 (2) of the Regulation is amended by striking out “the policy may provide that”. (See: O. Reg. 313/24, s. 6 (2))

(3) If a member of the board proposes to participate in a meeting described in subsection (1) by electronic means, the member shall submit a request in writing and the reasons for the request to the chair of the board before the meeting begins. O. Reg. 313/24, s. 4.

(4) If the member of the board making a request under subsection (3) is the chair of the board, the chair shall submit the request and reasons to the vice-chair of the board, or if the board has no vice-chair, to another member of the board. O. Reg. 313/24, s. 4.

(5) The chair, vice-chair or other member, as applicable, may approve a request if they are satisfied that one or more of the following circumstances exist:

1. The member’s primary place of residence within the area of jurisdiction of the board is located 125 kilometres or more from the meeting location.
2. Weather conditions do not allow the member to travel to the meeting location safely.
3. The member cannot be physically present at a meeting due to health-related issues.

4. The member has a disability that makes it challenging to be physically present at a meeting.
5. The member cannot be physically present due to family responsibilities in respect of,
 - i. the member's spouse,
 - ii. a parent, step-parent or foster parent of the member or the member's spouse,
 - iii. a child, step-child, foster child, or child who is under legal guardianship of the member or the member's spouse,
 - iv. a relative of the member who is dependent on the member for care or assistance, or
 - v. a person who is dependent on the member for care or assistance and who considers the member to be like a family member. O. Reg. 313/24, s. 4.

(6) The chair shall not approve a request under subsection (5) if approving the request would result in fewer than one member of the board, in addition to the chair of the board or their delegate, being physically present in the meeting room. O. Reg. 313/24, s. 4.

(7) The vice-chair or other member of the board shall not approve a request under subsection (5) unless the chair's designate will be physically present in the meeting room. O. Reg. 313/24, s. 4.

(8) If there is a policy described in subsection (2), it shall provide that,

- (a) the chair or designate shall be physically present in the meeting room of the board for at least half of the meetings of the board during each 12-month period beginning November 15, 2022; and
- (b) subject to subsection (9), a member of a board shall be physically present in the meeting room of the board for at least three regular meetings of the board during each 12-month period beginning November 15, 2022. O. Reg. 313/24, s. 4.

Note: On September 1, 2025, subsection 7 (8) of the Regulation is revoked. (See: O. Reg. 313/24, s. 6 (3))

(9) If a member of a board is elected or appointed to fill a vacancy on or after November 15, 2022, the member shall be physically present in the meeting room of the board for at least one regular meeting of the board for each period of four full calendar months that occurs during the period beginning on the day the member is elected or appointed and ending the following November 14. O. Reg. 313/24, s. 4.

Note: On September 1, 2025, subsection 7 (9) of the Regulation is revoked. (See: O. Reg. 313/24, s. 6 (3))

(10) Subsection (9) does not apply for a period described in that subsection if, at any time during the period, all schools of the board are closed pursuant to an order referred to in subsection 10 (1). O. Reg. 313/24, s. 4.

Note: On September 1, 2025, subsection 7 (10) of the Regulation is revoked. (See: O. Reg. 313/24, s. 6 (3))

Board and committee meetings, director of education attendance

8. The policy shall require that the director of education of the board or their designate be physically present in the meeting room for each meeting of the board and each meeting of a committee of a board, including a committee of the whole board. O. Reg. 313/24, s. 4.

Note: On September 1, 2025, section 8 of the Regulation is amended by striking out "The policy shall require that the director of education or their designate" at the beginning and substituting "The director of education or their designate shall". (See: O. Reg. 313/24, s. 7)

No failure to be physically present, s. 228 of the Act

9. For greater certainty, the failure to be physically present as required by a policy referred to in subsection 7 (8) does not constitute a failure for the purposes of clause 228 (1) (e) of the Act. O. Reg. 313/24, s. 4.

Note: On September 1, 2025, section 9 of the Regulation is revoked and the following substituted: (See: O. Reg. 313/24, s. 8)

School closures

9. (1) On and after September 1, 2025, the requirements under sections 6, 7 and 8 for members to be physically present at meetings, and the requirement under section 5, do not apply for the period described in subsection (2) of this section, if all schools of the board are closed pursuant to an order made by,

- (a) the Minister under section 5 (1) of the Act;
- (b) a medical officer of health or the Chief Medical Officer of Health under section 22 or 77.1 of the *Health Protection and Promotion Act*;
- (c) the Lieutenant Governor in Council under paragraph 5 of subsection 7.0.2 (4) of the *Emergency Management and Civil Protection Act*; or
- (d) the Lieutenant Governor in Council under clause 4 (1) (a) of the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*. O. Reg. 313/24, s. 8.

(2) The period referred to in subsection (1) is determined as follows:

1. If an order is made under subsection (1) before September 1, 2025 and continues to apply on that date, the period starts on September 1, 2025 and ends 60 days after the order ceases to apply.

2. If an order is made under subsection (1) on or after September 1, 2025, the period starts on the day the order is made and ends 60 days after the order ceases to apply. O. Reg. 313/24, s. 8.

School closures

10. (1) On and after November 15, 2022, despite a policy of a board respecting electronic meetings, the requirements under section 6, subsection 7 (1) and section 8 for persons to be physically present at meetings, and the requirement under section 5, do not apply for the period described in subsection (2) of this section, if all schools of the board are closed under an order made by,

- (a) the Minister under section 5 (1) of the Act;
- (b) a medical officer of health or the Chief Medical Officer of Health under section 22 or 77.1 of the *Health Protection and Promotion Act*;
- (c) the Lieutenant Governor in Council under paragraph 5 of subsection 7.0.2 (4) of the *Emergency Management and Civil Protection Act*; or
- (d) the Lieutenant Governor in Council under clause 4 (1) (a) of the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*. O. Reg. 313/24, s. 4.

(2) The period referred to in subsection (1) starts on the day the order is made and ends 60 days after the order ceases to apply. O. Reg. 313/24, s. 4.

(3) On and after November 15, 2022, despite a policy of a board respecting electronic meetings, the requirements under subsection 7 (8) for persons to be physically present at meetings do not apply for a period described in that subsection if all schools of the board are closed for a total of two or more months during that period under an order mentioned in subsection (1). O. Reg. 313/24, s. 4.

Note: On September 1, 2025, section 10 of the Regulation is revoked. (See: O. Reg. 313/24, s. 8)

Transition

11. (1) Subsections 7 (8) to (10) and 10 (3) apply, with necessary modifications, for the period that begins November 15, 2024 and ends September 1, 2025. O. Reg. 313/24, s. 4.

(2) For greater certainty, if, in accordance with subsection (1), subsection 7 (9) applies to a person, the person shall be physically present in the meeting room of the board for at least three regular meetings of the board during the period described in subsection (1), subject to subsection 7 (10). O. Reg. 313/24, s. 4.

Note: On September 1, 2025, section 11 of the Regulation is revoked. (See: O. Reg. 313/24, s. 9)

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[Back to top](#)



BYLAWS

Consolidated Bylaws

5.7 Attendance at Meetings

- 5.7.1 Trustees who cannot attend a board meeting or a meeting of a committee of the board should notify the secretary of the board or designate as early as possible. If it appears that there will be no quorum for a meeting, the secretary shall notify the Chair of the board or the committee, as the case may be, and, at the Chair's discretion, the meeting may be postponed or cancelled and notice thereof shall be delivered to the Trustees as soon as possible.
- 5.7.2 In accordance with section 228(1)(b) of the *Education Act*, a Trustee vacates their seat if they are absent from three (3) consecutive regular board meetings, unless the absence is authorized by resolution of the Board.
- 5.7.3 Trustees shall be physically present for each regular board meeting and regular committee of the whole meeting, unless prior written approval is received from the Chair of the board, to participate electronically in the meeting as a result of one of the circumstances identified in the Provincial regulation for granting such approval, which are set out below. Failure to be physically present at a regular board meeting without obtaining prior approval to participate electronically, constitutes an absence for purposes of s.228(1)(b) of the *Education Act* (which is the requirement that a Trustee vacates their seat if they miss three regular board meetings in a row unless approved by the board).
- 5.7.4 The circumstances for electronic attendance that may be approved by the Chair are as follows:
1. *The member's primary place of residence within the area of jurisdiction of the board is located 125 kilometres or more from the meeting location.*
 2. *Weather conditions do not allow the member to travel to the meeting location safely.*
 3. *The member cannot be physically present at a meeting due to health-related issues.*
 4. *The member has a disability that makes it challenging to be physically present at a meeting.*
 5. *The member cannot be physically present due to family responsibilities in respect of*
 - .i. the member's spouse,*
 - ii. a parent, step-parent or foster parent of the member or the member's spouse,*
 - iii. a child, step-child, foster child, or child who is under legal guardianship of the member or the member's spouse,*
 - iv. a relative of the member who is dependent on the member for care or assistance, or*
 - v. a person who is dependent on the member for care or assistance and who considers*

the member to be like a family member.

- 5.7.5 The Chair shall not approve the request if it would result in fewer than one member of the board, in addition to the Chair or their designate, being physically present in the meeting room.
- 5.7.6 Any Trustee seeking approval to participate electronically in a regular board meeting or regular committee of the whole meeting shall submit the request in writing to the Chair of the board before the meeting begins. The request shall include the reasons for the request. To the extent the request may engage consideration of private and confidential medical information, the Trustee may engage the Trustee Accommodation Policy in submitting the request.
- 5.7.7 If the request is being made by the Chair of the board, the request shall be submitted to the Vice-Chair of the board. The Vice-Chair shall not approve a request unless the Chair's designate will be physically present in the meeting room.
- 5.7.8 If the request to participate electronically is denied, the Trustee will be deemed absent but may still participate electronically unless there is a valid cyber security reason for not allowing such participation.
- 5.7.9 Any Trustee request to participate electronically in a regular meeting of the board that is denied by the Chair or the Vice Chair, as the case may be, may be brought to the board of Trustees for consideration and the board may authorize the absence for the under section 228(1)(b) of the Education Act.
- 5.7.10 The Chair or designate must be physically present in the board room for at least half of the meetings of the board for the 12 -month period beginning November 15th. Trustees must be physically present in the meeting room of the board for at least three regular meetings of the board for the period November 15, 2023-November 14, 2024, and for the period November 15, 2024 to August 30, 2025, and must physically attend at least one regular board meeting for each four-month period during an annual period commencing November 15th. It is noted that failure to comply with the requirements in this paragraph does not engage the deemed vacancy provisions in the Education Act.
- 5.7.11 The chair of a committee of the board or their designate shall be physically present in the meeting room at every regular meeting of the committee of the board, except a committee of the whole board. The Director or designate shall be physically present in the meeting room for each meeting of the board and each meeting of a committee of the board, including a committee of the whole board.
- 5.7.12 The electronic means shall permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously.
- 5.7.13 The electronic means shall be provided in such a way that complies with the rules governing conflict of interest of members.
- 5.7.14 The Board shall provide members of the public with electronic means for participating in meetings, provided that such participation has been approved by the board. Even absent public participation, electronic meetings shall be made available for public viewing.
- 5.7.15 The Board may provide, at one or more locations within its jurisdiction, electronic means to permit any approved participation in meetings by members of the public.

5.7.16 Members of the public participating through electronic means shall not participate in any proceedings that are closed to the public. The electronic means being used shall ensure the security and confidentiality of any closed sessions.

5.7.17 Student Trustees who are participating electronically are not to participate in any closed session that concerns matters set out in sections 207(2)(b) of the Education Act.

5.7.18 Members attending a meeting electronically must advise the Chair when they join the meeting. Members who leave the meeting before adjournment, whether temporarily or permanently, shall advise the Chair.

5.7.19 Anyone participating electronically must use the mute function on their device when not speaking. Members attending electronically are expected to keep their camera on during the meeting.

5.7.20 When a seat becomes vacant, the provisions of the *Education Act*, and any relevant provision(s) of these Bylaws, shall govern the filling of the vacancy.

5.7.21 At the Organization Meeting each year, the Chair will deliver to the Board an annual report of Trustee attendance at meetings of the Board and Committee of the Whole - Standing since the last Organizational Meeting.

~~5.7.1 Trustee attendance at regular Board meetings is governed by the *Education Act* and the regulations thereunder.~~

~~5.7.2 A Trustee who cannot attend a Board Meeting should notify the Secretary of the Board or designate as early as possible. If it appears that there will be no quorum for a meeting, the Secretary shall notify the Chair and, at the Chair's discretion, the meeting may be postponed or cancelled and notice thereof shall be delivered to the Trustees as soon as possible.~~

~~5.7.3 In accordance with section 228(1) of the *Education Act*, a Trustee vacates their seat if they are absent (electronically or physically), as recorded in the minutes, from three (3) consecutive regular Board meetings, unless authorized by resolution of the Board or if one of the exemptions in the *Education Act* is engaged.~~

~~5.7.4 Subject to statutory or regulatory exemptions due to the current pandemic or otherwise, and subject to any accommodation as to attendance provided under the Board's Attendance Accommodation Policy, Trustees must be physically present for at least three (3) regular Board meeting annually.~~

~~5.7.5 When a seat becomes vacant, the provisions of the *Education Act*, and any relevant provision(s) of these Bylaws, shall govern the filling of the vacancy.~~

~~5.7.6 At the Organization Meeting each year, the Chair will deliver to the Board an annual report of Trustee attendance at meetings of the Board and Committee of the Whole - Standing since the last Organizational Meeting.~~

5.8 — Electronic Participation

~~5.8.1 Members attending a meeting electronically must advise the Chair when they join the meeting to be deemed present at the meeting.~~

- ~~5.8.2—Members who leave the meeting before adjournment, whether temporarily or permanently, shall advise the Chair.~~
- ~~5.8.3—Subject to statutory or regulatory exemptions due to the current pandemic or otherwise, no more than half of Board or Committee meetings in a twelve (12) month period can be chaired electronically in accordance with Ontario Regulation 463/97.~~
- ~~5.8.4—All members participating via audio or video conference who are not speaking must use the mute function on their device. Members will make every effort to avoid disrupting a meeting by turning personal and electronic devices to a non-audible function, reducing all background noise (including audible sounds transmitted from placing a call on hold), and refraining from private conversations.~~

~~SECTION 9: ELECTRONIC MEETINGS~~

~~9.1 Introduction~~

~~The Board shall provide for the use of electronic means for the holding of meetings of the Board and meetings of a Committee of the Board, including a Committee of the Whole. The rules in this section apply to the extent they are not suspended or modified by Provincial regulation.~~

~~9.2 Attendance~~

~~9.2.1 Subject to statutory or regulatory exemptions due to the current pandemic or otherwise, at every meeting of the Board or Committee of the Whole, the following persons shall be physically present in the meeting room of the Board:~~

- ~~(a) The Chair of the Board or their designate;~~
- ~~(b) At least one additional member of the Board; and~~
- ~~(c) The Director of Education of the Board or their designate.~~

~~9.2.2 Subject to statutory or regulatory exemptions due to the current pandemic or otherwise, at every meeting of the Board or Committee of the Whole, the following persons shall be physically present in the meeting room of the Board:~~

- ~~(a) The Chair of the Committee or her or his designate; and~~
- ~~(b) The Director of Education of the Board or his or her designate.~~

~~9.2.3 Notwithstanding the foregoing, the Chair is able to preside over a meeting electronically when:~~

- ~~(a) Weather conditions do not allow the Chair to travel to the meeting location safely; or~~
- ~~(b) The Chair cannot be physically present at the meeting for health reasons.~~

~~9.2.4 Subject to 9.2.1 and 9.2.2, at the request of any Board member or Student Trustee, the Board shall provide the member or representative with electronic means of participating in one or more meetings of the Board or of a Committee, including a Committee of the Whole Board.~~

~~9.2.5 A Trustee or Student Trustee who participates in a meeting through electronic means shall be deemed to be present at the meeting.~~

~~9.3 Participation of Board Members and Student Trustees~~

~~9.3.1 The electronic means shall permit the member or representative to hear and be heard by all other participants in the meeting.~~

~~9.3.2 The electronic means shall be provided in such a way that the rules governing conflict of interest of members are complied with.~~

~~9.3.3—The Board may provide, at one or more locations within its jurisdiction, electronic means to permit participation in meetings by members of the public. Electronic meetings shall be made available for public viewing.~~

~~9.3.4—The extent and manner of participation shall be determined by the Chair based on the electronic means available.~~

~~9.3.5—Members of the public participating through electronic means shall not participate in any proceedings that are closed to the public.~~

Reference Documents

Appendix:

Appendix A: Board Member (Trustee) Code of Conduct

Effective Date

2022-03-22

Amended

2022-09-19

2023-05-15

2023-06-19

2023-10-16

2024-01-22

2024-06-17

DURHAM DISTRICT SCHOOL BOARD ADMINISTRATIVE REPORT

REPORT TO: Durham District School Board **DATE:** September 3, 2024
SUBJECT: Amendments to Board Member Code of Conduct **PAGE:** 1 of 2
ORIGIN: Camille Williams-Taylor, Director of Education and Secretary to the Board
Patrick Cotter, General Counsel

1.0 Purpose

The purpose of this report is to seek the Board of Trustees approval of amendments to the Durham District School Board (DDSB) Board Member Code of Conduct.

2.0 Background and Analysis

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

The Durham District School Board is committed to providing learning and working environments that centre human rights and equity and are safe, welcoming, respectful, equitable, accessible, inclusive, and free from all forms of discrimination, oppression, harassment, and harm.

On July 29, 2024, the Ministry of Education filed O. Reg. 312/24: Members of School Boards – Code of Conduct, included as Appendix A. This regulation sets out a mandatory term that must be incorporated into the code of conduct for all school boards in Ontario.

To comply with the new legislation, sections of the DDSB Board Member Code of Conduct applicable to the use of confidential information and receipt of gifts have been revised and are included as Appendix B.

3.0 Communication Plan

Once adopted, the revised Code of Conduct will be posted on the DDSB website and circulated by email to trustees.

4.0 Conclusion and/or Recommendations

It is recommended that the Board of Trustees adopt the proposed amendments to the Board Member Code of Conduct as noted in Appendix B of the report.

5.0 Appendices

Appendix A: Ontario Regulation 312/24

Appendix B: Revised Board Member Code of Conduct (tracked changes)

Report reviewed and submitted by:



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



Patrick Cotter, General Counsel

Français

ONTARIO REGULATION 312/24

made under the

EDUCATION ACT

Made: July 10, 2024

Filed: July 29, 2024

Published on e-Laws: July 30, 2024

Published in *The Ontario Gazette*: August 17, 2024

MEMBERS OF SCHOOL BOARDS - CODE OF CONDUCT

Obligations

1. A code of conduct mentioned in subsection 218.2 (1) of the Act shall contain the following obligations:
 1. A board member shall comply with the board's code of conduct and any applicable board by-law, resolution, policy or procedure.
 2. When acting or holding themselves out as a board member, the member shall conduct themselves in a manner that would not discredit or compromise the integrity of the board.
 3. When acting or holding themselves out as a board member, the member shall treat persons equally without discrimination based on a person's race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability.

Prohibitions

2. (1) A code of conduct mentioned in subsection 218.2 (1) of the Act shall contain the following prohibitions:
 1. No board member shall use or permit the use of board resources for any purpose other than the business of the board.
 2. No board member shall disclose confidential information obtained or made available to them in their role as a board member except as authorized by law or by the board.
 3. No board member shall use information described in paragraph 2 in a manner that would be detrimental to the interests of the board or for the purpose of personal gain or for the gain of the member's parent, spouse or child.
 4. No board member shall accept a gift from any person, group or entity that has dealings with the board if a reasonable person might conclude that the gift could influence the member when performing their duties unless,
 - i. the gift is of nominal value,
 - ii. the gift is given as an expression of courtesy or hospitality, and
 - iii. accepting the gift is reasonable in the circumstances.
 5. No board member shall act as a spokesperson to the public on behalf of the board unless authorized to do so under clause 218.4 (e) of the Act.

(2) In this section, "child", "parent" and "spouse" have the same meaning as in section 1 of the *Municipal Conflict of Interest Act*.

Additional content

3. A board's code of conduct may contain additional provisions if the provisions do not conflict with any of the required provisions set out in sections 1 and 2.

Review

4. (1) Every board shall periodically review its code of conduct for, among other things, compliance with this Regulation, and shall pass a board resolution setting out the required changes, or if no changes are required, confirming the code of conduct.

(2) The first review shall be completed within 30 days after this Regulation comes into force.

(3) The second review shall be completed no later than May 15, 2027.

(4) Each subsequent review shall be completed in the fourth year following the previous review and no later than May 15 in that year.

(5) If one or more changes are set out in a board resolution under subsection (1), the board shall update its code of conduct to reflect the changes no later than August 31 in the year of the review.

Publicly available

5. (1) Every board shall make its code of conduct publicly available on its website.
- (2) A board shall indicate on its website the effective date of every change it makes to its code of conduct, other than changes of a typographical or similar nature.
- (3) A board shall maintain an archive of all previous versions of its code of conduct, indicating the period during which each version applied, and shall ensure that the versions are publicly accessible.

Self-Amendment**6. Subsection 2 (1) of this Regulation is amended by adding the following paragraphs:**

- 4.1 No board member shall give notice of an alleged breach of the code of conduct under subsection 218.3 (1) of the Act if the allegation is frivolous or vexatious or the notice is given in bad faith.
- 4.2 No board member shall engage in reprisal or the threat of reprisal against,
- i. a member who gave notice of an alleged breach of the code of conduct under subsection 218.3 (1) of the Act, or
 - ii. any person who provides information about the alleged breach to the integrity commissioner appointed under clause 218.3 (3) (b) of the Act.

Revocation**7. Ontario Regulation 246/18 is revoked.****Commencement**

8. (1) **Except as otherwise provided in this section, this Regulation comes into force on the day it is filed.**
- (2) **Section 6 comes into force on the later of the day section 24 of Schedule 2 to the *Better Schools and Student Outcomes Act, 2023* comes into force and the day this Regulation is filed.**

Made by:
Pris par :

Le ministre de l'Éducation,

TODD SMITH
Minister of Education

Date made: July 10, 2024
Pris le : 10 juillet 2024

Français

Back to top

Board Member (Trustee) Code of Conduct**Confidential Information**

- 6.14** Confidential Information includes,
- (a) Information in the custody and/or control of the DDSB that is subject to the privacy provisions of the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA) or other legislation, including, but not limited to personal information of staff and students, third party corporate, commercial, scientific, or technical information, solicitor-client or litigation privileged information;
 - (b) Information in respect of litigation or potential litigation affecting the Board, and information that is subject to solicitor-client privilege;
 - (c) Information discussed during closed session pursuant to section 207 of the *Education Act*;
 - (d) Intimate, personal or financial information of a Trustee, staff member or prospective staff member, student, parent or guardian;
 - (e) The acquisition or disposal of the Board's real property, including a school site; and,
 - (f) Information in respect of negotiations with staff members.
- 6.15** No Trustee shall disclose or release, to anyone, by any means, any Confidential Information acquired by virtue of their office, in either oral or written form, except when required by law or authorized by the Board to do so. This is a continuous obligation that extends beyond the Trustee's term of office.
- 6.16** No Trustee shall use Confidential Information ~~for either personal gain or to the detriment of the Board that would be detrimental to the interests of the board or for the purpose of personal gain or for the gain of the member's parent, spouse or child.~~
- 6.17** Trustees should not access or attempt to gain access to Confidential Information in the custody of the Board unless it is necessary for the performance of their duties and not prohibited by Board policy. It is understood that any staff providing access to any such Confidential Information may share it with other Trustees, as may be appropriate in the circumstances.
- 6.18** Under the Board's Consolidated Bylaws, a matter that has been discussed by any committee of the Board, including a committee of the whole board, in closed session in accordance with section 207(2) or 207(2.1) of the *Education Act* is confidential. Trustees shall not disclose the content of any such matter, or the substance of deliberations, of the closed session unless and until, and only to the extent that, the Board of Trustees discusses the information at a meeting that is open to the public or releases the information to the public or the Board of Trustees otherwise gives prior authorization for the disclosure.
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- 6.19** Members of the Board are only entitled to information in the possession of the DDSB that is relevant to matters before the Board of Trustees or a committee of the Board. Otherwise, members enjoy the same level of access rights to information as any other member of the community.
- 6.20** If there is uncertainty about whether information is confidential, a Trustee may seek guidance from the Board's General Counsel.

Upholding Decisions

- 6.21** All Trustees of the Board shall accept that authority rests with the Board of Trustees, and that a Trustee has no individual authority other than that delegated by the Board of Trustees. Trustees shall be mindful of this in all of their interactions with others and will not commit the Board, any Board Committee or staff to any particular course of action.
- 6.22** Each Trustee shall uphold the implementation of any Board resolution after it is passed by the Board. A proper motion for reconsideration or rescission, or the like, if permitted by the Consolidated Bylaws and Robert's Rules of Order, if applicable, may be brought forward by a Trustee.
- 6.23** A Trustee should be able to explain the rationale for a resolution passed by the Board. A Trustee may respectfully state his or her position on a resolution provided it does not in any way undermine the implementation of the resolution.
- 6.24** Each Trustee shall endeavor in good faith to comply with the Board's Consolidated Bylaws. The Board of Trustees as a whole, and not individual Trustees, implements and monitors compliance with Board policies. There are a few instances where policies and procedures apply to individual trustees (e.g., Trustee expense policy and procedure) and Trustees shall comply with all such policies and applicable procedures.
- 6.25** The Chair of the Board is the spokesperson to the public on behalf of the Board, unless otherwise determined by the Board. No other Trustee shall speak on behalf of the Board unless expressly authorized by the Chair of the Board or the Board of Trustees to do so. When individual Trustees express their opinions in public, through any medium including social media, they must make it clear that they are not speaking on behalf of the Board.
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Gifts, Benefits and Hospitality

- 6.26** Trustees are expected to carry out their duties with impartiality and objectivity. Trustees shall not accept a gift, benefit or hospitality in order to avoid the risk that this will compromise their objectivity or lead to an appearance of lack of objectivity, bias or influence.
- 6.27** For these purposes, a gift, benefit or hospitality provided with the Trustee's knowledge to a Trustee's spouse, child, or parent, or to a Trustee's staff that is connected directly or indirectly to the performance of the Trustee's duties is deemed to be a gift to that Trustee.

6.28 No Trustee shall accept a gift from any person, group or entity that has dealings with the board if a reasonable person might conclude that the gift could influence the Trustee when performing their duties unless:

- i. the gift is of nominal value,
- ii. the gift is given as an expression of courtesy or hospitality, and
- iii. accepting the gift is reasonable in the circumstances.

~~6.28~~ There are circumstances in which the acceptance of a gift, benefit or hospitality occurs as part of the social protocol or community event linked to the duties of an elected official and his/her role in representing the Board. The exceptions do not apply in the case of vendors of goods and services or those expecting to be vendors to the DDSB.

The following is a list of recognized exceptions:

- ~~(a) compensation authorized by law;~~
- ~~(b) gifts of a nominal value (e.g., gift card, hat, t-shirt, mug, not exceeding approximately \$100.00);~~
- ~~(c) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;~~
- ~~(d) a political contribution otherwise reported by law, in the case of members running for office;~~
- ~~(e) services provided without compensation by persons volunteering their time;~~
- ~~(f) a suitable memento of a function honouring the member;~~
- ~~(g) food, lodging, transportation and entertainment provided by Provincial, regional and local governments or political subdivisions of them, by the Federal government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the member is either speaking or attending in an official capacity. For the purposes of this exception, "official capacity" refers to attendance in a ceremonial, presentational or representational role on behalf of the Board or where the DDSB has authorized the member to attend on behalf of the organization;~~
- ~~(h) food and beverages consumed at banquets, receptions or similar events, if:~~

- ~~I. attendance serves a legitimate business purpose;~~
- ~~II. the person extending the invitation or a representative of the organization is in attendance; and~~
- ~~III. the value is reasonable and the invitations infrequent;~~

- ~~IV. communication to the offices of a member, including newspapers and periodicals; and,~~
- ~~V. no Trustee shall accept a gift from any person or entity that has dealings with the Board if a reasonable person might conclude that the gift could influence the Trustee when performing his or her duties to the Board. Any gifts received shall be reported to the Chair of the Board.~~

- 6.29** An invitation to attend a function where the invitation is connected directly with the performance of a Member's duties of office (i.e. for which the Trustees has a ceremonial, presentational or representational official role) is not considered to be a gift. This type of attendance is considered to be fulfillment of official public duties.

Conflict of Interest

- 6.30** A Trustee shall not use his or her office to advance the Trustee's interests or the interests of any family member or person or organization with whom or with which the Trustee is related or associated.
- 6.31** No Trustee shall use his or her office to obtain employment with the Board for the Trustee or a family member.
- 6.32** Members of the Board shall comply with the *Municipal Conflict of Interest Act (MCIA)* and avoid conflicts of interest as defined by this Code of Conduct, and the Broader Public Sector (BPS) Directive and Code of Ethics.