

OFFICE OF THE INTEGRITY COMMISSIONER  
REPORT

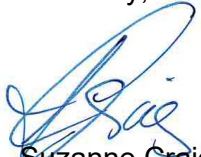


December 3, 2024

TO: Chair Ron Lynn and Members of the York Region District School Board

I submit this Report to the York Region District School Board for information and receipt, in fulfillment of my role as Integrity Commissioner.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Suzanne Craig', with a large, stylized flourish at the end.

Suzanne Craig  
Integrity Commissioner

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## Overview

As Integrity Commissioner for the YRDSB, I am accountable and report directly to the Board of Trustees. My duties include to:

- provide advice to trustees on the application of the Trustee Code of Conduct, Board policies, procedures, the Trustee Code of Conduct Complaint Protocol and general information with respect to a trustees' obligations under the Municipal Conflict of Interest Act;
- make inquiries as directed by the Board of Trustees and in accordance with the Complaint Protocol into whether a trustee has contravened the Trustee Code of Conduct,
- provide opinions on policy matters and make other reports to the Board of Trustees as requested on issues of ethics and integrity,
- provide educational programs to trustees on issues of ethics and integrity,
- maintain custody and control of their complaint and inquiry files and on completion of the term of office, transfer open files relating to ongoing matters to the incoming Integrity Commissioner appointed by the Board of Trustees, and
- provide such other duties respecting ethical matters as assigned by the Board.

During this reporting period, this Office has reviewed informal and formal complaints under the Code. Some of these complaints involved issues that were not within the jurisdiction of the Integrity Commissioner to receive and investigate. As the mandate of this Office does not include the review of inquiries and complaints on Board policy or actions of the Board and administration, I did not investigate the matters raised in certain complaints.

Throughout the 2023 and 2024 years, the work of this Office demonstrated the importance of having independent oversight of the conduct of Trustees. However, it is clear that some individuals who sought review of matters by my Office did not understand that their matters fell under the application of a Board policy or another statute, for example the Municipal Freedom of Information and Protection of Privacy Act.

The processes under the Code Complaint Protocol ensured that concerns of the public were heard and addressed, and that investigative action was taken when matters raised with this Office fell within the jurisdiction of the Integrity Commissioner. Some examples of the outcomes in respect of these concerns raised can be found in this report.

## How The Office of the Integrity Commissioner Works

As the Integrity Commissioner for the YRDSB, my Office acts as an independent and impartial officer who receives complaints from staff, the public and Trustees with respect to the conduct of individual Trustees. The Board Member Code of Conduct Complaint Protocol (the "Complaint Protocol") stipulates that Trustees filing a complaint must use the Complaint Form and this shall be provided to the Trustee whose is being investigated. However, section 7.2 of the Complaint Protocol sets out that:

A Community Member who has reasonable grounds to believe that a Trustee has breached the Code may bring the breach to the attention of the Board by making an oral or written complaint to the Integrity Commissioner. The Trustee Code of Conduct Complaint Form is not required to be completed by a Community Member. The Integrity

Commissioner shall confirm the complainant is a Community Member of the York Region District School Board.

Thus my interpretation of the Complaint Protocol is that where a Trustee brings forward a Formal Code Complaint, the Complaint Form including the name of the complainant will be provided to the Respondent. However, where the Integrity Commissioner receives a Formal Code Complaint from a Community Member, there is no requirement that the Complaint Form be used, and the names of complainants are confidential. In both cases, the investigations are conducted in private, while the investigation report is submitted to the Board in public session. I recommend that the Board consider clarifying whether the Complaint Form is always required when there is a Formal Complaint and if the names of the complainant shall be confidential.

What this Office can do:

- Review and investigate formal complaints about individual Trustee's actions, conduct at meetings, interaction with one another. Anyone who has knowledge of Trustee behaviour that they believe is contrary to the Code rules, may also attempt to resolve the complaint through the informal complaint process. If efforts to resolve the matter are not successful, and if the matter is within the jurisdiction of this Office, an individual may see the assistance of the Integrity Commissioner to support the process or mediate the matters.
- Determine whether the Trustee's actions or behaviour were in contravention of the Code rules. Flag to the Board of Trustees and Board senior staff, trends in complaints that suggest systemic issues and or gaps in policy and recommend best practices and/or ways to improve clarity in obligations to enhance Code compliance.
- Assist Board staff and the public with general questions about the Office's complaint processes. Conduct formal investigations, if after an initial classification the Office determines it is warranted, and make recommendations on sanctions or remedial action.

Matters not within the jurisdiction of this Office will not be investigated by the Integrity Commissioner's Office and the complainant is advised to pursue the matter through another process.

The Complaint Protocol for the Code sets out the scope of the Integrity Commissioner's authority over matters addressed by the Code. Under the Complaint Protocol an allegation that may involve a contravention of the Criminal Code of Canada is a police matter, and would not be investigated by the Integrity Commissioner. If there is concurrent jurisdiction, the Integrity Commissioner will determine whether she will hold the complaint in abeyance under the police investigation has concluded. Also, the Integrity Commissioner does not investigate a complaint of alleged conflict of interest involving a Trustee. This is because the powers conferred under to the Integrity Commissioner under the Education Act, does not include the authority to receive or investigate conflict of interest matters. Complaints involving allegations under the *Municipal Conflict of Interest Act* (the "MCIA") are enforced through the courts.

What this Office cannot do:

- Review or overturn decisions of Board staff or the administration, the Board of Trustees or Committees.

- Determine what YRDSB policy should be (although this Office is consulted on important initiatives).
- Review or investigate the actions, decisions or omissions of the Board administration, principals, teachers or school support staff.
- Provide legal advice or representation or act as an advocate for a complainant or staff person.

## 1.1 What this Office Received

Some of the Complaints that I received, paralleled requests for information under the Municipal Freedom of Information and Protection of Privacy Act (“MFIPPA”). Whether a requester is a member of the public or an individual Trustee, the right of access to information directly corresponds to a desire to shed light on the operations of the Board. The principle of open government is one that allows citizens to scrutinize the activities of elected officials and public servants to ensure that they are acting in the public interest. One pillar that supports open government is freedom of information legislation, which gives people the right to access government-held information. This legislation also provides a recognizable threshold against which general access guidelines may be measured.

Given that my authority does not extend to decisions of the Board or staff, some of the matters that were raised to my Office, related to questions about Committee and Board Policy processes. In my responses to Complainants with respect to complaints that I dismissed, I encouraged individuals to work with the Board to gain a better understanding of how to influence Board policies and access information to facilitate full public participation.

Complaint Not Within the Jurisdiction of the Office of the Integrity Commissioner:

### i. Municipal Conflict of Interest Act and School Board Policy

I received a Code complaint alleging a Member’s Code contravention with respect to a decision made to re-name a school in the Respondent’s Ward. The Complaint set out that in accordance with York Region District School Board (“YRDSB”) Policy 445, School Naming Policy, a Ward Trustee is responsible for school naming and that the individual whose name she or he puts forward for the new name of the school, was not a name supported by the residents of the Ward in which the school is located. In addition the Complaint raised issue of pecuniary interest disqualifications under the MCIA.

The legislature determined that, effective March 1, 2019, a municipal integrity commissioner may investigate and form a view based on available information about whether there was a breach of s. 5, 5.1, or 5.2 of the *MCIA*.

My role as Integrity Commissioner at the YRDSB does not include receiving or investigating alleged contraventions of the *Municipal Conflict of Interest Act*. Unlike municipal integrity commissioners, school board integrity commissioners in Ontario have not been given statutory power to receive and investigate MCIA complaints.

Upon review of the information provided in the Complaint, I made a determination that the matter, on its face, was about the application and implementation of the School Naming Policy, the enforcement of which is outside of my jurisdiction as Integrity Commissioner to investigate. In addition, pursuant to sections 5 (b) and (d) of the Code Complaint protocol, (b) if the

complaint is with respect to non-compliance with the Municipal Conflict of Interest Act, the complainant shall be advised to review the matter with the complainant's own legal counsel; (d) in other cases, the complainant shall be advised that the matter, or part of the matter, is not within the jurisdiction of the Integrity Commissioner to consider, with any additional reasons and referrals as the Integrity Commissioner considers appropriate.

A school naming policy is a District and Board matter. School Board decision-making is a collective and not an individual Trustee function. I do not have jurisdiction to review complaints regarding decisions or omissions of the Board of Trustees as a whole or Board policies or administrative decisions. There are checks and balances within the School Naming Policy to ensure that while the Trustee leads the process, the names must meet certain criteria. If the District believes that the criteria should be changed, the process to do so should be followed.

ii. No Grounds To Continue the Investigation:

I received a 3 Code Complaints in which Trustees were alleged to have breached the Board Policy #240.0, Human Rights: Code-Related Harassment and Discrimination (the "Human Rights Policy").

The Complaint alleged that Trustees made "disturbing comments" during the October 1, 2024 Board meeting using language that the Complainants believed was racially charged, demeaning and inflammatory, neither issue-based nor aligned with the professional standards expected from a trustees.

During my preliminary classification, with reference to comments made at the October 1, 2024 Board meeting, I noted that the decorum during Board meetings is governed by the Procedural Bylaw and enforced by the Chair, I advised that although the Integrity Commissioner generally has concurrent jurisdiction with the Chair presiding over the Board, with respect to language used at the meeting, I determined that in the circumstances of the Complaint, I would not intervene to review meeting conduct where the subject matter of the complaint falls within the boundaries of enforcement mechanisms of the Procedural By-law as well as political debate and opinion.

What was before the Board and what was introduced into the political debate was that there are various definitions of equity. I determined that the Board was engaged in a debate on a matter and in each Complaint the Respondent's comment was in response to a question posed during the Board deliberation and was a reflection of her opinion based on the subject matter.

I declined, as an Integrity Commissioner, to impose preconditions on what terms that are within the political and social vernacular of equity, are appropriate within a political discuss. The District has in place Human Rights and Discrimination policies, including Discrimination Slurs and Statements Protocol<sup>1</sup>. I determined that it is not within my ambit of authority as Integrity Commissioner, to rule on what suitably informed politicians have the right say when speaking on a matter of political debate about equity or other areas within which they deem to be their mandated area of responsibility under the *Education Act* unless the utterances fall within language prohibited under the Statements Protocol or otherwise as I interpret the Board policies. I advised one Complainant that as a parent, they may voice their concerns with the District and the Board if they would like to see certain words and language prohibited from use in the

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<sup>1</sup> [Discriminatory Slurs and Statements Protocol: Guidance for Staff in Learning and Working Environments | York Region District School Board](#)

classroom, workplace and at Board meetings. I advised however, that this determination is not the responsibility of this Office.

iii. Complaints raising issues of governance and omissions of the administration:

I received a complaint in which the Complainant raised concerns with the governance model of public school boards and their ability to self-regulate. Further, the Complainant raised concerns with the fact that the Code of Conduct does not set out the duties of a Trustee with respect to their constituent duties and there is no mention of the integrity obligations and responsibilities of staff.

I advised that I do not have jurisdiction to review complaints alleging the contraventions by staff or officers of the administration or decisions or omissions of the Board of Trustees as a whole or Board policies. I reiterated to the Complainant that the functions of my role as Integrity Commissioners includes applying the code of conduct and any procedures, rules and policies governing the ethical behavior of individual Trustees, including conducting investigations and inquiries into complaints about alleged contraventions of a code of conduct.

**2.1 Activities Of The Office Of The Integrity Commissioner**

The Office received 6 formal complaints and 8 informal complaints in relation to the Code in the reporting period.

**Code of Conduct  
Inquiries**

From Trustees	From the Public	From staff	Total General Inquiries
2	5	0	7

**Code of Conduct Complaints**

	2023-24
Formal complaints	6
- Disposition	6 Dismissed- outside jurisdiction of IC
Informal complaints	8
- Disposition	4 Dismissed 4 Informal Resolution
<b>Total Code of Conduct Complaints</b>	14

**2.2 Informal And Formal Complaints**

There were 6 Formal complaints filed with this Office and 8 Informal complaints brought forward to this Office in the 2023-24 reporting period.



Of the 6 formal complaints, all were dismissed at the intake stage after the completion of a preliminary review.

In several of the formal complaints that were dismissed, the allegations raised issues outside of the jurisdiction of the Integrity Commissioner (including allegations of Trustee contravention of rules 5, 5.1 and 5.2 of the MClA for which the IC under the Education Act does not have jurisdiction to review).

The objective of a Formal Code complaint process is to discover facts upon which to make a decision on whether a Trustee, on a balance of probabilities, has contravened the Code of Conduct rules. The purpose-driven function of the complaint process allows the Integrity Commissioner the discretion to conclude a matter with recommendations, as part of an informal resolution of a Formal Complaint or dismiss the matter if the complaint relates to a matter outside of the Integrity Commissioner's jurisdiction.

In the complaints that I dismissed without investigation, I advised the Complainants that I would not be conducting an investigation and provided my reasons.

With respect to the formal complaints, this Office concluded that the alleged conduct, in respect of the issues, did not give rise to a complaint under the Code for which the Integrity Commissioner has jurisdiction to review. In fact, this Office clarified that the substance of the complaint was not within my jurisdiction to address as there are other procedures through which the matters are to be pursued. While the Office of the Integrity Commissioner does not act as an appeal body in respect of decisions made by the administration, if a complaint comes forward to my Office alleging contraventions of Board policies, I will include in my determination evaluations in that regard. To be clear, if a complaint alleges that a Trustee has contravened section 14 of the Code – Failure To Adhere To the Board Policies and Procedures and Supporting Documents – I may determine that my Office has jurisdiction. However, if the complaint raises the existence of a lack of clarity on a Board policy (i.e. the Board Trustee acted in accordance with the Board policy but there is a belief that the Board policy should be amended), I will advise the complainant to pursue the matter with the relevant Board staff through the avenues available for public comment on Board policies.

### **3. Issues Of Note**

#### **3.1 The Board Member Code of Conduct and Human Rights**

Generally, 'Harassment' is defined as: A course of conduct or comments which is unwelcome or offensive to an individual or group of individuals, thus creating an uncomfortable work atmosphere. The Ontario Human Rights Code defines harassment as...engaging in a course of vexatious comment or conduct that is known or ought to reasonably be known to be unwelcome'. The Board Member Code of Conduct mentions discrimination and harassment in section 12: Conduct Respecting Staff Members and Section 13: Discreditable Conduct.

When looking at governance at the YRDSB, there is not a clear approved process to determine jurisdiction on matters relating to workplace/sexual harassment or discrimination in complaints which involve a Trustee. The lack of clarity is compounded by the inconsistency of provisions set out under the Code and the Board Human Rights procedures.

Typically, a workplace policy gives the organization jurisdiction to receive and investigate workplace harassment and discrimination complaints, make findings of contravention of the

policies and decide on penalties, up to an including termination of employment. However, a Board Trustee is not an employee under the Education Act and enforcement of a breach of discrimination policy rules by a Trustee is within the jurisdiction of the Integrity Commissioner.

I look forward to working with the Board and staff to better clarify the roles and responsibilities of addressing human rights, harassment and discrimination complaints that involve a Trustee.

### **3.2 YRDSB Communications**

Throughout this reporting period, in reviewing an informal complaint, this Office needed to identify whether a policy or procedures relating to school naming also governed the actions of the Trustee named in the complaint. The complaint also touched on social media comments. In discussions with staff, this Office was advised Communications relating to school naming has an approved process.

The Office of the Integrity Commissioner is not responsible for reviewing or investigating staff actions or omissions or whether a Board policy should be revised. However, the allegations were in respect to a Trustee brought to light that there is a need for greater clarification on the roles and responsibilities of staff, Ward Trustees and the public with respect to decisions on school naming. I determined that the actions of the Trustee were not reviewable by the Office of the Integrity Commissioner in respect of the rules of the Human Rights policies and I determined that the allegations of improper use of influence did not meet the threshold for a review. However, in fulfilment of the mandate of this Office, I am bringing this matter to the attention of the Board.

The matter was dismissed as there was no evidence that staff was compelled to act contrary to their professional decision-making authority under the Policy. However, there is a need to clarify the public's role in this process. I understand this Policy will be reviewed in 2025 and recommend that this policy gap be considered and if the existing approved process is without gaps, that this be communicated to all Trustees and to the public

## **4 Education And Outreach**

January 2023:

All trustees were invited to a Code overview session, which focused on an information presentation covering the rules of the Board Member Code of Conduct, the Role of Trustees, the Role of the Integrity Commissioner and the Complaint processes and staff have shared they are committed to scheduling a follow up session in 2025.

## **5 Conclusion**

In carrying out their role, trustees have the very real challenge of balancing their responsibilities and allegiances as representatives of their communities with their role as education leaders within the decision-making body of the board as a whole. This dual responsibility can mean that the ultimate decisions made are at variance with the specific interests of a particular geographical constituency, demographic population, or interest group. All trustees are expected to act in the best interest of the board and its students as a whole. Effective board governance is dependent on a clear understanding of, and respect for, roles and responsibilities. As trustees communicate with their communities and hear their concerns, they must at the same time convey that changes to existing board policy require consideration by the full

board. Trustees, as individuals, do not have authority to make decisions or take action on behalf of the board.<sup>2</sup>

Over the course of the period covered in this Report, there have been some Trustees that have stated in public Committee and Board meetings that any decision of the Committee or Board to not approve a particular motion was tantamount to a decision to uphold systemic discrimination and an example of how institutional bias effected through decisions not to change, produces outcomes that disproportionately disadvantages certain groups.

Though I have observed that Board Trustees are committed to the principles of the anti-racism, anti-discrimination and equity documents of the Board and that the Board has continued to identify ways to make a difference in the lives of racialized, low-income, special needs, First Nation, Indigenous, and new Canadians, this is a political discussion for which the Integrity Commissioner should not be arbiter of what definitions should be imposed on words used by Trustees or the public. Of late, some have taken the position that Integrity Commissioner's offices are being used to weaponize freedom of expression and political differences. During the course of the reporting period, trustees at times have expressed different opinions on important topics which while expected, can lead to divisiveness if left unchecked. I understand additional Governance training was recently provided which is a recommended practice moving forward.

In response to complainants that assert that their Complaint should not be dismissed or Trustees that admonish the weaponizing of the Office of the Integrity Commissioner, it is my position that the Board's Integrity Commissioner is the administrative decision-maker vested with the power to receive and evaluate a Code complaint and on its face, refuse to investigate, or dismiss a complaint where the complaint is frivolous, vexatious or not made in good faith. However importantly, if the Office determines that a complaint, while touching on matters that may be viewed by a Respondent as frivolous or motivated by racial or other bias, is properly addressed to matters within the Code, that does not by itself mean the complaint is frivolous or made in 'bad faith.' A valid complaint that addresses conduct caught by the Code will generally not be in bad faith, in the absence of actual or constructive fraud, design to mislead or deceive, or a dishonest purpose. As a procedural safeguard, the Board Code has an approved complaint process that sets out how the Integrity Commissioner will conduct her preliminary review prior to deciding whether or not to commence an investigation. addressed through the formal Code complaint and investigation process.

Notwithstanding the issues set out above that I am required to communicate as part of a transparent accountability reporting regime, I have had no opposition to my carrying out my duties from any staff or Trustee. This Board has demonstrated a willingness to have difficult discussions and the work of Trustees, continues to set a high bar for accountability in the public sector. I would like to thank Jeff Fair, Comptroller – Corporate and Legal Affairs and his staff for providing me with assistance to obtain Board policies and other information that I required to fulfill my mandate.

I would like to thank the Board of Trustees and the District for trusting me to fill this accountability role as the Board's Integrity Commissioner.

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<sup>2</sup> OPSBA Good Governance Guide: 2018-2022, p.36