



BY-LAW NUMBER 15
C-21/22-120

1. OBJECTIVES

- This By-law sets out the common standards and expected behaviors that guide the members of the Council of Commissioners in the execution of their duties.
- This Code of Ethics also governs the actions of and relationships between the members of the Council of Commissioners, as well as their dealings with other key stakeholders.

2. REFERENCES

- Education Act, sections 175.1 to 177.1.
- Act respecting access to documents held by public bodies and the Protection of Personal Information, sections 53, 59 and 158 to 164.
- Act respecting Elections and Referendums in Municipalities, sections 306 to 312.
- Civil Code of Quebec, sections 321 to 330.

3. TITLE

This By-law is entitled: ***Code of Ethics and Professional Conduct, for the Commissioners of the Western Quebec School Board (WQSB)***, hereafter referred to as the Code of Ethics.

4. APPLICATION

This Code of Ethics applies to every Commissioner within the meaning of the Education Act.

5. DUTIES AND OBLIGATIONS OF COMMISSIONERS

Commissioners have the following duties and obligations:

5.1 General duties

Commissioners fulfill their duties and obligations with independence, integrity, and good faith, in the best interest of the WQSB and the population it serves. They act with prudence, diligence, honesty, and loyalty.

Commissioners must behave in a professional manner and must continuously practice the art of diplomacy with each other and all employees of the School Board as well as with the general public.

Commissioners must protect and promote the integrity and credibility of the WQSB.

Commissioners must abide by the rules, by-laws and policies established by the WQSB Council of Commissioners or through the delegated authority of Council Committees.

Commissioners must make every effort to attend meetings of the Council of Commissioners and meetings of committees on which they serve; they are to inform the Chair or Secretary General of anticipated absences.

5.2 Exercise of power

Commissioners do not have powers or authority in their own right regarding the WQSB's activities. Commissioners must act democratically and in a spirit of cooperation. Their powers and authority are exercised through duly convened structures of the WQSB.

Commissioners must base their decisions on the best information available and their independent judgment. They shall not allow their decisions to be dictated by individuals or special interest groups.

5.3 Decisional Solidarity

Once a decision has been reached by the Council of Commissioners, Commissioners must act in a manner that reflects and respects this decision. Commissioners should be able to explain the rationale for the decision (or defer to someone in the WQSB who can) and cooperate with its implementation. A Commissioner who wishes to express personal disagreement with a decision of the Council of Commissioners has the fundamental freedom to do so and must do so in a manner consistent with the present Code of Ethics.

5.4 Information

Commissioners must act with absolute discretion both during and after their mandate and must respect the confidential nature of personal, commercial or scientific information obtained in the performance of their duties, particularly the information disclosed during meetings held in camera.

Without limiting the generality of the above, Commissioners must not divulge nor use to their personal profit or for the profit of a third party, privileged or confidential information. Commissioners must refrain from using information obtained in the performance of their duties to provide directly or indirectly an advantage to their close relations or to themselves in the context of the negotiation or conclusion of a contract or an agreement with the WQSB.

6. CONFLICT OF INTEREST

A situation of conflict of interest is a situation in which a Commissioner might have to choose between his/her personal interest or those of his/her close relations and the interests of the WQSB.

The term interest means a direct or indirect interest, financial or not, real, apparent or potential. This interest is distinct from the public interest in general and can be perceived as a conflict by a reasonably informed person.

Commissioners must avoid any actual conflict or situations that give the appearance of a conflict of interest as provided by the *Education Act (Section 175.4; EA)* and this by-law.

Commissioners must disclose any situation that places or could place, directly or indirectly, his/her personal interests or those of his/her close relations in conflict with those of the WQSB.

6.1 Usage of the title and position

Commissioners must not use their title or position in order to obtain for their close relations or for themselves, services offered by the WQSB to which they are not normally entitled.

6.2 Favor or undue advantage

Commissioners must not directly or indirectly award, solicit or accept a favor or an undue advantage for themselves or another person. Commissioners must not accept any gifts, proofs of hospitality or advantages other than those that are common and of minimal value.

6.3 Preventive Measures

Without limiting Commissioners' obligations under section 175.4 of the *Education Act*, upon a commissioner's entry into office, he/she shall identify, in writing, on the form provided by the WQSB, situations or relationships which might create a conflict of interest. This form must be completed at least once a year and whenever a change occurs which might create a real or perceived conflict.

In any deliberations of Council or in Committee, where a Commissioner is in conflict of interest, whether actual, potential or perceived, the Commissioner must declare the conflict, withdraw from sitting while the issue is being discussed and/or voted upon, and avoid influencing the discussion in any way.

7. PRACTICES RELATING TO REMUNERATION

Commissioners receive the remuneration determined by the Council of Commissioners in conformity with the applicable legal and statutory dispositions. Commissioners are not entitled to any other remuneration than the one stipulated by these provisions.

8. DUTIES AND OBLIGATIONS OF COMMISSIONERS AFTER LEAVING OFFICE

All the obligations provided for in the present by-law continue for the duration of one (1) year after the end of a Commissioner's mandate except the obligation of confidentiality regarding information pertaining to the reputation and the private lives of others or confidential information as defined under the *Act Respecting Access to Documents Held by Public Bodies and the Protection of Personal Information*, in which case the obligations apply indefinitely.

9. PERSON CHARGED WITH ENFORCEMENT

9.1 Designation of Person

The Council of Commissioners designates one person (herein after named the "Designated Person") charged with the enforcement of this code.

One (1) other member is designated as substitute to replace the Designated Person in case of absence or inability to act.

The term of office for the Designated Person and his substitute is four (4) years.

9.2 Designated Person's Role and Powers

- i. The Designated Person is responsible for the application of this Code.
- ii. The Designated Person is responsible for reviewing or investigating situations or behaviors alleged to derogate from this By-law.
- iii. The Designated Person has the power to convene hearings, call witnesses, gather and document evidence, make recommendations and write a report of findings and conclusions on cases reviewed. The report of findings and conclusions, along with any recommendations, are to be submitted to the Secretary General for distribution to the Council of Commissioners.
- iv. Each year, the Designated Person submits his/her report to the Council of Commissioners on September 30th at the latest for the previous school year ending June 30th.

9.3 Coordination

The Secretary General coordinates the work of the Designated Person, however, without any authority to determine if this Code has been contravened or to impose a penalty.

9.4 Selection

9.4.1 Requirements

The Designated Person is chosen from the following categories:

- i. Former member of a Council of Commissioners or Municipal Council (City, borough or metropolitan area) that has not held that office for the previous two (2) years;
- ii. Former school board administrator who has ceased such function for at least two (2) years;
- iii. Former member of judicial or quasi-judicial authority, who has ceased such function for at least two (2) years;
- iv. Experienced mediator or arbitrator;
- v. Practicing lawyer with experience in public law;
- vi. Representative of the general public with appropriate experience.

9.4.2 Call for nominations

- i. Call for nominations for the position of Designated Person will be posted in newspapers across the WQSB territory by the Secretary General.
- ii. When a position (Designated Person or substitute) becomes vacant, the Secretary General submits a list of candidates to the Council of Commissioners.

9.4.3 Remuneration

An honorarium will be paid to the Designated Person and the substitute at a rate to be determined by the Council of Commissioners.

9.5 Operations of the complaint and allegation process

9.5.1 Coordination

The Secretary General's role and functions are:

1. Making sure that the complaint or allegation is submitted in writing, by sworn statement;
 2. Making sure that the complaint pertains to subject matter referred to in this By-law.
 3. Deciding whether the complaint or allegation is receivable based on the two preceding paragraphs; If the complaint is rejected at this step, the Complainant may appeal this decision to the Designated Person;
- ii. If the complaint or allegation is declared receivable, delivering said complaint or allegation to the Commissioner (hereinafter Respondent) affected by the complaint or allegation and inviting him/her to provide his/her comments within 15 working days, unless there are special circumstances that justify a reasonable delay. Except for extraordinary circumstances, the delay should not exceed an additional 15 working days. The deadline for the Respondent to submit comments will be as indicated in writing by the Secretary General; That deadline will also be communicated in writing to the Complainant, as will any delay and the reason for it.
- iii. If the complaint or allegation is receivable, convening the Designated Person in writing to lay the complaint or allegation, together with the Respondent's reply to it.

9.5.2 Examination by the Designated Person

The Designated Person writes to each person named in the complaint and any witnesses who may give pertinent information in order to convene the meeting(s). The parties may be accompanied by the person(s) of their choice.

The Designated Person may set deadlines for evidence to be submitted for examination, bearing in mind the overall deadline for completion of his/her work specified in paragraph 9.5.3 below.

Commissioners are required to cooperate with any duly initiated investigation by the Designated Person and abide by the decisions of the Council of Commissioners that flow from the recommendations of the Designated Person.

If a Commissioner fails to cooperate with the process of examining a complaint, the Designated Person may note this in the report of findings and conclusions and proceed to finish his/her work within the overall deadline for the process specified in paragraph 9.5.3 below.

9.5.3 Deliberations

The Designated Person must proceed with deliberations without delay and render a final decision within ninety (90) days of the date the complaint was assigned to him/her, unless the Complainant asks for an extension to be able to submit further evidence or if the Complainant is asked for a specified extension of time and he/she agrees in writing.

9.5.4. Determination

- i. Following the review session, the Designated Person determines whether there has been a contravention of this by-law.
- ii. If the Designated Person concludes that there has been a contravention, he/she recommends an appropriate sanction to Council, *excluding* sanctions under a provincial or federal court's exclusive jurisdiction. Certain offenses can constitute misconduct under the Act respecting elections and referendums in municipalities, which could carry more severe sanctions, including disqualification.
- iii. These sanctions include, but are not limited to, one or more of the following:
 - Admonition
 - Censure
 - Exclusion from in person attendance at meetings of Council for a determined period of time.
 - Recommendation that any other measures be taken by the WQSB under section 176 of the Education Act.

10. ACCESS TO THIS CODE

The Code of Ethics and Professional Conduct of the Western Québec School Board is available to the public on the WQSB website, as well as by request from the Office of the Secretary General.

11. EFFECTIVE DATE

The present by-law will become effective on the date of its adoption by the Council of Commissioners.

12. REVIEW PROCEDURE

This By-Law may need to be reviewed from time to time. Such a review will be led by the Governance and Ethics Committee upon the By-Law being referred to it from Council. Any Commissioner may bring a request for review of the By-Law to the Council for approval and referral to the Governance and Ethics Committee. Because this is an internal By-Law for the Council of Commissioners,

it does not need to be sent out for external review. Any revisions must be adopted by the Council of Commissioners.