



Lester B. Pearson  
School Board

Commission scolaire  
Lester-B.-Pearson

## REGISTER OF OFFICIAL DOCUMENTS

### CODE OF ETHICS AND PROFESSIONAL CONDUCT APPLICABLE TO THE COUNCIL OF COMMISSIONERS

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Note that these addenda are for administrative purposes and are not part of the present by-law. They are subject to modifications without consultation.

## 1. Preamble

The primary role of a Commissioner is to ensure that a quality public education program is available taking into consideration the best interests of the School Board as a whole and its students and the local constituency he/she represents.

The Council of Commissioners acts in accordance with the relevant Quebec statutes and regulations to implement provincial education standards and policies required by the Ministère de l'Éducation et de l'Enseignement Supérieur. ..

To fulfill its mandate, the Council of Commissioners must work together and with all its stakeholders in a learning and working environment characterized by common purpose, mutual respect and integrity.

## 2. Enabling Provisions

Education Act, R.S.Q., c. I-13.3, sections 175.1 to 177.2

## 3. Purpose

In accordance with section 175.1 of the Education Act, the purpose of this By-Law is to set out the duties and obligations of the Commissioners, and to prescribe fundamental standards regarding the ethical behaviour of the Commissioners. In particular, the purpose of this By-Law is to:

- Ensure the integrity, objectivity and impartiality of the Council of Commissioners;
- Establish standards of professional conduct for its Commissioners;
- Ensure transparency in the conduct of their business;
- Prevent potential or real conflicts of interest;
- Ensure respectful and collegial interactions of Commissioners amongst themselves and with everyone.

Wherever used herein, the term *Commissioner* refers to a person who is a member of the Council of Commissioners as per section 143 of the Education Act, including the Chair, the parent Commissioners and the co-opted Commissioners.

This By-Law is applicable to all Commissioners of the Lester B. Pearson School Board.

Wherever used herein, a pronoun in the masculine gender shall be considered as representing both genders unless the context clearly indicates otherwise.

## **SECTION I - Duties and obligations of the Commissioners**

### **4. General duties**

- 4.1. The Commissioner must comply with the duties and obligations prescribed by the School Board's By-Laws and Policies, and by the duties and obligations prescribed by the Education Act and any other applicable legislation.
- 4.2. The Commissioner must act within the scope of the functions and powers conferred by the Education Act.
- 4.3. The Commissioner must fulfill the office with independence, integrity and good faith in the best interests of the School Board and the population served by the School Board.
- 4.4. The Commissioner must exercise the care, prudence and diligence that a reasonable person would exercise in similar circumstances.
- 4.5. The Commissioner must at all times act and communicate in a manner that is dignified and compatible with his office in order to protect and promote the reputation and credibility of the School Board.
- 4.6. The Commissioner must treat all Commissioners as well as the employees of the School Board, parent representatives, volunteers, the school community, the public and other bodies in a professional and respectful manner.
- 4.7. The Commissioner must disclose to the Council of Commissioners any illegal or irregular situations affecting the School Board that he is aware of and must do so with due discretion and impartiality; however, in cases regarding a violation of the present Code of Ethics, a Commissioner may submit a complaint to the Ethics Officer as per section 12. .

### **5. Decisional Authority**

- 5.1. The Commissioner must abide by the majority decision of the Council of Commissioners and recognize that decisional authority rests with the Council of Commissioners in a legal session.
- 5.2. The Commissioner does not have powers or authority in his own right regarding the School Board's activities. His powers and authority are exercised through duly convened structures of the School Board and with due regard for everyone's role and responsibilities.
- 5.3. The Commissioner must respect the principle of democracy, in a spirit of cooperation, and must not present himself as having sole authority over the actions of the School Board.
- 5.4. The Commissioner must base his decisions on the available information and his

independent judgment. He shall not allow his decisions to be dictated by any other individual or special interest group.

## **6. Conflict of Interest**

- 6.1. The Commissioner must submit to the Secretary General a written statement, on the form provided by the School Board (refer to Addendum A), of any situation or relationship which might create a potential or apparent conflict of interest.

In particular, the Commissioner shall disclose:

- 6.1.1 Any personal or monetary interest which, in the eyes of a reasonably informed observer, would likely influence or impact the person's function and affect the impartiality of his opinions or decisions;
- 6.1.2. Any situation that places or could place, directly or indirectly, his personal interests or those of his close relations in conflict with those of the School Board;
- 6.1.3. Any direct or indirect interest in any enterprise which might place the Commissioner's personal interest in conflict with the interest of the School Board.
- 6.2. The Commissioner shall submit the statement of interest upon entry into office, and as soon as any change occurs.
- 6.3. When in a situation of conflict of interest with regard to a subject treated by the Council of Commissioners or its committees, the Commissioner must disclose such conflict and withdraw from the deliberations and the vote on the subject.
- 6.4. The Commissioner must avoid placing himself in a situation of conflict between his personal interest, or the interest of a person having a relationship with him, and the general interest of the School Board. In particular, the Commissioner:
- 6.4.1. Must refuse, and disclose to the Council of Commissioners any offer of services or goods made to him by a person in order to obtain a contract or any other benefit from the School Board;
- 6.4.2. Must not directly or indirectly offer, solicit or accept a favour or an undue advantage for himself or another person;
- 6.4.3. Must not use his influence to obtain, for their relatives, friends, or themselves, a benefit, employment or service offered by the School Board to which they, another person or enterprise are not normally entitled.

## **7. Remuneration**

The Council of Commissioners determines, by resolution, the distribution of the remuneration paid to its members for the services they render, in accordance with the maximum annual amount determined by Government regulation. A Commissioner is not entitled to any other payment from the School Board other than an expense reimbursement in compliance with the *Commissioners' Local Travel, Conference, and Other Expenses* policy.

## **8. Gifts**

- 8.1. No Commissioner shall accept a gift from any person or entity that has dealings with the School Board if a reasonable person might conclude that the gift could influence the Commissioner when performing his duties to the School Board.

## **9. Confidential Information**

- 9.1. As part of his duties for the School Board, a Commissioner has access to strictly confidential information and privileged information about the School Board operations as well as personal information about others (hereinafter the Confidential Information).
- 9.2. Without limiting the generality of the foregoing, the following must be considered as Confidential Information:
  - Any personal information collected or kept by the School Board regarding its employees, including disciplinary measures;
  - Any personal information collected or kept by the School Board regarding its students;
  - The content and nature of a complaint under this Code of Ethics, and any information regarding the investigation;
  - Discussions on negotiations in progress;
  - Negotiations and information relative to suppliers during the tendering process;
  - Documents stamped or identified as “confidential”;
  - Information disclosed during “in camera” meetings of the Council of Commissioners, the Executive Committee, a Standing Committee, and respective Subcommittees.
- 9.3. The Commissioner shall demonstrate absolute discretion regarding any Confidential Information, both during and after his term of office.
- 9.4. The Commissioner shall never use Confidential Information for other reasons than that for which it was communicated to him.

- 9.5. The Commissioner shall take all necessary measures to ensure the protection of such Confidential Information against any unauthorized access.
- 9.6. The Commissioner must submit a signed Solemn Affirmation to Respect Confidentiality Form (Addendum B) within 10 days of the taking of the Oath of Office.

## **10. Protection against certain financial losses**

- 10.1. In accordance with section 177.2 of the Education Act, the School Board shall assume the defense of any Commissioner who is the object of a complaint under this Code of Ethics and Professional Conduct or prosecuted by a third person for an act done in the exercise of his functions.
- 10.2. The Commissioner who wishes to exercise this right must submit a request to the Council of Commissioners.
- 10.3. The School Board will provide the appropriate services to ensure the Commissioner's defense in all cases where the request is deemed compliant with section 177.2 of the Education Act.
- 10.4. In the event where a Commissioner would choose to hire an attorney independently, the School Board will only reimburse the Commissioner the costs equal to that which the School Board would have reasonably incurred for his defense in providing the services according to paragraph 10.3.
- 10.5. In all cases, decisions regarding the legal fees to be assumed by the School Board under this section shall be taken by the Council of Commissioners, or by the authority to which this power has been specifically delegated.

## **SECTION II - Enforcement Mechanism and sanctions**

### **11. Ethics Officer**

- 11.1. In order to implement this By-Law, the Council of Commissioners shall appoint by resolution an Ethics Officer who will be responsible for dealing with complaints made against a Commissioner for a potential breach of this Code of Ethics and Professional Conduct.
- 11.2. The Ethics Officer must be a jurist, normally with a minimum of ten (10) years of relevant experience.
- 11.3. The Ethics Officer must not be a member of the Council of Commissioners or an employee of the School Board, in conformity with section 175.1 of the Education Act.
- 11.4. The Ethics Officer must not be a relative of a member of the Council of

Commissioners or of an employee of the School Board.

11.5. The Council of Commissioners shall also appoint by resolution a Substitute to replace the Ethics Officer if he is absent or unable to perform his duties in an expeditious manner. This Substitute must also be a jurist, normally with a minimum of ten (10) years of relevant experience.

11.6. The term of the mandate of the Ethics Officer and his Substitute is determined by the Council of Commissioners.

## **12. Filing a Complaint**

12.1. A complaint must be related to a breach of one or more of the specific provision(s) of the Code of Ethics and Professional Conduct and must present specific facts in support of the alleged breach.

12.2. The complaint must be submitted in writing and may be filed by any person aware of a breach of the Code of Ethics and Professional Conduct.

12.3. The complaint must be addressed to the Secretary General who will forward it to the Ethics Officer.

## **13. Procedure**

The Ethics Officer shall act in accordance with the principles of procedural fairness with all those involved. To this effect, the following guidelines should be followed:

13.1. The Ethics Officer will acknowledge receipt, in writing, of the complaint to the Complainant and will inform him of his rights pursuant to paragraph 13.6.7 of this Code of Ethics.

13.2 Subject to the provisions of paragraph 13.6.7 of this Code of Ethics, the Ethics Officer will send a copy of the complaint to the Commissioner concerned.

13.3. Within fifteen (15) days of the receipt of the complaint the Ethics Officer may determine whether or not the complaint is clearly unfounded or frivolous and whether or not further investigation is necessary.

13.4. If the Ethics Officer decides that the complaint is clearly unfounded or frivolous, he will state it in a written decision which will be sent to the Secretary General. The Secretary General shall then follow the process established at paragraph 14.3.

13.5. In all other cases, the Ethics Officer will convene, in writing and as per the process established at paragraph 13.6, the Complainant, the Commissioner affected by the complaint, and any other witness he will deem relevant, in order to determine if the complaint is founded.

13.6. During the investigation:

- 13.6.1. Each party will be convened separately and in turn.
- 13.6.2. The Complainant and the Commissioner affected by the complaint may request that the Ethics Officer meet or discuss with certain witnesses; however, it is the prerogative of the Ethics Officer to decide who will be called as a witness.
- 13.6.3. The Ethics Officer may also meet or have a discussion with any other person who may have relevant information regarding the complaint.
- 13.6.4. All meetings with the Complainant, the Commissioner affected by the complaint and other witnesses will be conducted at the offices of the Ethics Officer.
- 13.6.5. The essential facts gathered during each deposition and deemed relevant by the Ethics Officer shall be transcribed and communicated to the witness for confirmation purposes.
- 13.6.6. The Ethics Officer, if deemed advisable, designates a mechanism to record any testimony but only for the purposes of facilitating his note taking of the pertinent facts. The actual recording of any testimony will not be disclosed to anyone, unless forced to do so by a court order or if the witness concerned authorizes the Ethics Officer to do so.
- 13.6.7. The Ethics Officer may decide to hold confidential the identity of a witness, including the Complainant, upon request from any of them. Depending on the circumstances and the facts exposed, the Ethics Officer will decide if it is appropriate to keep the name of that person confidential; however, the Ethics Officer shall inform the witness of his decision before communicating his identity to anyone in order to allow the witness to refuse said communication and to withdraw his testimony.
- 13.6.8. A summary of the facts gathered during any of the processes indicated above, and that the Ethics Officer deems relevant, will be communicated to the Commissioner concerned in order to give him an opportunity to understand and reply.

13.7. Once the parties and witnesses have been heard, the Ethics Officer will render a decision in writing stating the reasons as to whether there has been an infraction to the Code of Ethics and Professional Conduct; and if so, the Ethics Officer will determine the appropriate penalty, the whole as provided for under paragraph 14.1 of this Code.

## 14. Decision

- 14.1. Following the investigation, the Ethics Officer will decide whether or not the Code of Ethics and Professional Conduct was breached. If so, he will select one or more measure(s) amongst the following:
- 14.1.1. A written reprimand, accompanied or not by a request for an apology;
  - 14.1.2. The suspension or revocation of the right to sit on School Board committees except the right to participate in the public meetings of the Executive Committee and the Council of Commissioners;
  - 14.1.3. The suspension of the Commissioner's remuneration up to a maximum of 6 months;
  - 14.1.4. A recommendation to the Council of Commissioners that an action to declare the Commissioner disqualified be initiated in accordance with section 176 of the Education Act and section 308 of the Act Respecting Elections and Referendums in Municipalities.
- 14.2. The Ethics Officer shall send his complete decision to the Secretary General and the Commissioner affected by the complaint.
- 14.3. The Secretary General shall forward the decision to the Complainant and to all Commissioners and, in cases where the Ethics Officer concludes that the Code of Ethics and Professional Conduct was breached, the decision and the name of the sanctioned Commissioner shall be presented in public within 45 days.
- 14.4. The communication of the decision to the Commissioners, the Complainant and to the public shall be made in accordance with the *Act respecting Access to documents held by public bodies and the Protection of personal information*, and in particular, in compliance with the obligation to ensure the confidentiality of the personal information contained in the decision.

## SECTION III – Final provisions

### 15. Report

The Ethics Officer shall submit to the Council of Commissioners a written report of his activities, no later than September 30<sup>th</sup> for each school year ended on the previous June 30<sup>th</sup>, in compliance with section 175.1 of the Education Act.

### 16. Effective Date

The present By-Law becomes effective on the day public notice of its adoption is given.

## Addendum A<sup>1</sup>

### INTEREST DISCLOSURE FORM

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**Pursuant to section 175.4 of the Education Act (R.S.Q., c.1-13.3) any member of the Council of Commissioners must submit a written statement describing all direct or indirect personal interests he/she holds in any contract signed or to be signed with the School Board, or in any corporate body or business contracting with the School Board.**

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I, \_\_\_\_\_, in my capacity as Commissioner of the Lester B. Pearson School Board, hereby state:

That I \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

And

Thus, I shall refrain from participating in any discussion and any decision of the school board on this matter so as to avoid any possible conflict of interest.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Commissioner

<sup>1</sup> Note that this addendum is for administrative purposes and is not part of By-law #5. It is subject to modifications without consultation.

## **Addendum B<sup>1</sup>**

### **Solemn Affirmation to Respect Confidentiality**

The Council of Commissioners hereinafter referred to as “The Council” is charged by law with the responsibility of administering (section 143 of the Education Act) the Lester B. Pearson School Board. This is a heavy responsibility, but one that is shared and conducted as a group, not as individuals. In order to carry out this role, the Council has created a number of working committees, including a caucus of all Commissioners and senior management. In the course of conducting its affairs, the Council members are privy to a wide range of information and documentation, often shared in a confidential and private (non-public) setting.

**Each Commissioner of the Council shares the same access to, and responsibility for, confidential and nominative information which is necessary to oversee the operations, actions, and personnel under the day-to-day control of the Board management.**

If the majority of members of the Council believe that an individual Commissioner has failed to respect confidentiality, then the person responsible for the enforcement of the Code of Ethics can impose sanctions as stated in the Code of Ethics and Professional Conduct (Code of Ethics). As well, the entire Board is governed by By-law 3 which confers upon the General Counsel the Powers and Authority in Respect to the Act Respecting Access to Documents held by Public Bodies and the Protection of Personal Information. Legal action can be taken against any individual should such protection be breached.

Within this context, the members of the Council solemnly affirm their commitment to confidentiality, following both the spirit and the letter of the law, but also out of respect for their peers.

I, \_\_\_\_\_ the undersigned Commissioner, solemnly affirm that I will not divulge any confidential information such as

- Discussions in caucus or the non-public parts of workshops, committee or other meetings which I attend in the course of my role as Commissioner;
- Confidential information (so identified) provided as part of, or appended to, meeting agendas, kits or packages of documentation;
- Any discussion, any document, or any personal, student or personnel information relating to affairs of the LBPSB that must not be disclosed by virtue of the provisions of the Act Respecting Access to Documents held by Public Bodies and the Protection of Personal Information.

If not certain about the level of confidentiality of specific information or documentation that is protected by legislation, I will verify same with the General Counsel **and** with the Chairman or Director General of the School Board.

If I am uncertain about the consequence of public disclosure of any information shared among the members of the Council in confidence, I shall verify with the Chairman of the Board the appropriateness of such disclosure.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

<sup>1</sup> Note that this addendum is for administrative purposes and is not part of By-law #5. It is subject to modifications without consultation.