

YORK CATHOLIC DISTRICT SCHOOL BOARD



BOARD POLICY	
<i>Policy Section</i> Governance	<i>Policy Number</i> 108
<i>Former Policy #</i>	<i>Page</i> 1 of 6
<i>Original Approved Date</i> October 7, 2008	<i>Subsequent Approval Dates</i>

POLICY TITLE: INVESTIGATION OF COMPLAINTS AGAINST SENIOR ADMINISTRATION OR TRUSTEES

SECTION A

1. PURPOSE

The York Catholic District School Board recognises that there may be an occasion when a complaint is made against a trustee or a member of senior administration. The purpose of this policy is to set out how complaints of illegal, unethical or inappropriate conduct relating to senior administration or trustees are received, investigated and addressed.

2. POLICY STATEMENT

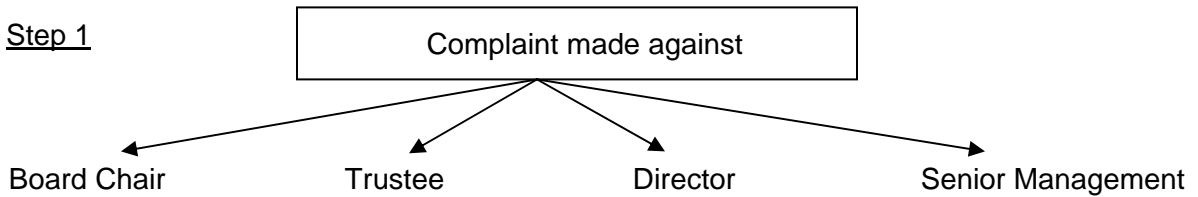
The York Catholic District School Board affirms its commitment to ensure that complaints of illegal, unethical or inappropriate conduct against senior administration or trustees are fully investigated and addressed in a timely manner.

3. PARAMETERS

- 3.1 Investigations shall be fair and impartial;
- 3.2 Confidentiality shall be maintained to the extent possible;
- 3.3 Access to information and appropriate resources shall be provided;
- 3.4 Accountability for investigations and decision-making will be clear;
- 3.5 Complaints must be made in writing and signed.

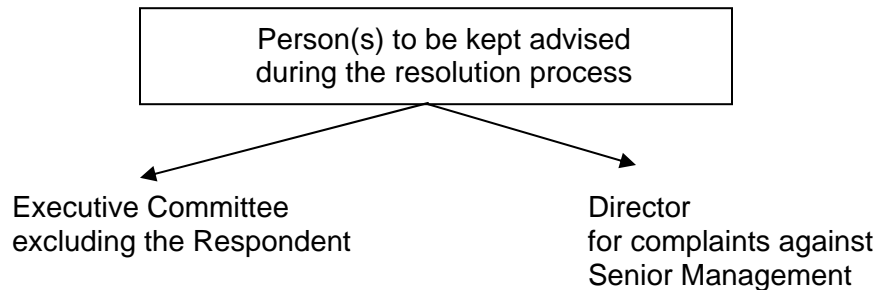
4. RESPONSIBILITIES
SUMMARY OF PROCESS FOR INVESTIGATING COMPLAINTS

Step 1



Written Complaint is referred to Oversight Accountability Committee (as facilitator) and forwarded to External Legal Counsel, as needed

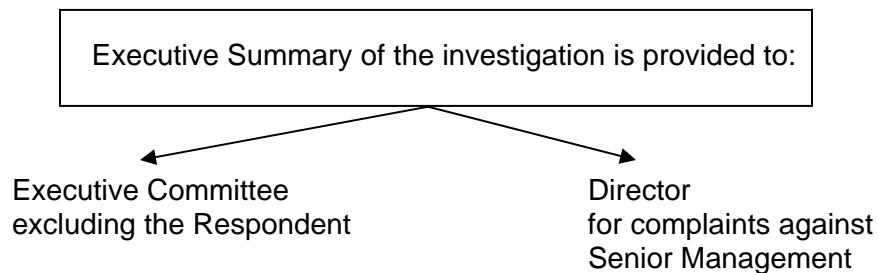
Step 2



Step 3

Investigation by External Legal Counsel/External Consultants

Step 4



Step 5

Follow up:

1. Executive Summary forwarded to Board if follow-up action is required;
2. Action taken by Director or Board based on findings;
3. Annual report by Director to in camera session of Board.

5. DEFINITIONS

Complainant:	Individual who makes a complaint against another individual under this policy.
External Consultants:	A person or agency, approved by the Board or by External Legal Counsel, to conduct investigations of complaints under this policy.
External Legal Counsel:	Counsel as appointed by the Board from time to time.
'Need-to-Know':	Refers to information about a complaint where disclosure of the information is necessary to conduct the investigation properly (e.g. disclosure of allegations to the Respondent or of the Respondent's response to the Complainant; disclosure to witnesses or potential witnesses in order to obtain information pertinent to the investigation or test the veracity of information obtained from another witness), to perform the individual's business function (e.g. printing reports for an investigation) or for the individual to make a decision or provide requested advice regarding the investigation, and must be limited to only the information reasonably needed to do so.
Oversight Accountability Committee:	Consists of the Director, the Associate Directors, the Chair and the Vice Chair of the Board (excluding the Respondent, if necessary).
Respondent	Individual against whom a complaint has been made under this policy.
Senior Administration:	Director, Associate Directors and all senior management (including Superintendents, Assistants to Superintendents and Senior Managers).
Solicitor-Client Privilege:	Protects all communication between client and lawyer, in his/her capacity as a lawyer, for the purpose of the lawyer giving legal advice, where such communication was intended to be confidential; such communications and legal advice given can only be disclosed with the client's permission.

6. CROSS REFERENCES

YCDSB Policy	Conflict of Interest for Employees
YCDSB Policy	Disposition of Complaints about Staff
YCDSB Policy	Racial and Ethnocultural Harassment
YCDSB Policy	Respectful Workplace Policy
YCDSB Policy	Sexual Harassment (Workplace)
YCDSB Policy	Sexual Harassment (Students)
YCDSB Policy	Communication Protocol: Trustees/Admin.

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ADMINISTRATION OR TRUSTEES**

SECTION B

GUIDELINES

1. INDEPENDENCE AND FAIRNESS OF INVESTIGATIONS

It is fundamental to the effectiveness of this policy that every Respondent is presumed innocent until it is concluded that the evidence obtained in the investigation establishes, on the balance of probabilities, that one or more of the allegations of misconduct against the Respondent is substantiated. Further, it is fundamental that investigations be conducted in a manner which is free from conflict of interest or bias.

- 1.1 Persons involved in conducting or overseeing an investigation must be free from actual or perceived conflicts of interest, including actual or perceived non-pecuniary conflicts or biases.
- 1.2 A person who makes or is the subject of a complaint must not conduct or oversee any aspect of the investigation of that complaint.
- 1.3 Without compromising the effectiveness of the investigation or any anonymity requested by the Complainant, the Respondent must be notified of the complaint and be given a fair opportunity to respond to the allegations made against him/her.

2. CONFIDENTIALITY

The complaint investigation and reporting process must be conducted in a manner that protects the interests of the Board, the legitimate expectations of complainants, and the rights and obligations of respondents. All information relating to the receipt and investigation of complaints is confidential, subject to the terms of this policy and any overriding legal requirements.

- 2.1 Disclosure is only permitted in accordance with the terms of this policy or on a 'need-to-know' basis, in which case, disclosure must be limited to the information necessary to make use of the recipient's knowledge or expertise, or as required by law;
- 2.2 If a complaint is not substantiated by the evidence, all information relating to it will remain confidential on completion;
- 2.3 If an allegation of misconduct is substantiated on the balance of probabilities by the evidence, then either the Director or the Board must determine whether some internal or public disclosure should be made of the misconduct or the sanction imposed.

Complaint and investigation files must be kept separate from employee files and stored in a secure location with access limited to those responsible for conducting the investigation. No record of a complaint will be kept in any employee file unless improper conduct is found that results in disciplinary action. In that case, the outcome of the investigation will only be reflected in the file of the disciplined employee.

3. OVERSIGHT ACCOUNTABILITY COMMITTEE

The Oversight Accountability Committee is responsible for ensuring that complaints of violations are appropriately investigated, resolved and reported under this policy. All complaints must be forwarded to the Oversight Accountability Committee who shall evaluate the nature of the complaint to determine the appropriate level of response.

External investigations are required for complaints involving Trustees and senior administration to avoid potential conflicts from peers investigating peers or individuals investigating persons with whom they have a direct or indirect reporting relationship.

The role of the Oversight Accountability Committee in the investigation of complaints is to facilitate the retention of appropriate external counsel and to provide resources and access to information requested by external counsel to properly fulfil the engagement. If the Board Chair or Executive Committee receives a complaint regarding a Trustee, they must coordinate any investigation with the Committee.

Where a member of the Oversight Accountability Committee has an actual or perceived conflict of interest in respect of the complaint, the complaint must be referred to another member of the Committee, who must refer the complaint to external counsel who will report to the Director or Executive Committee.

The member(s) of the Oversight Accountability Committee or external counsel overseeing the investigation must also ensure that:

- The Director is kept informed of complaints against senior management;
- The Executive Committee is kept informed of complaints against the Director or Trustees or Chair of the Board.

In order to protect the confidentiality of the investigation process and the legitimate privacy right of the individuals involved, neither the Director, the Chair nor the Executive Committee is required to report complaints or investigations to the Board, except as expressly contemplated by the processes set out in this policy.

4. INVESTIGATION RESOURCES

The individual appointed or retained to conduct an investigation of a complaint ('the investigator') must have full access to all records and people who may have relevant information. All employees, trustees and senior staff must cooperate with investigations (e.g. providing records or being interviewed).

In addition, external resources must be available to assist in investigations where needed. A complaint involving criminal conduct may also be referred to the police.

All external consultants retained must enter into a confidentiality agreement approved by the Board.

