CODE OF ETHICS

AND

PROFESSIONAL CONDUCT

FOR MEMBERS OF THE

COUNCIL OF COMMISSIONERS
BY-LAW No. 3 (2019)

CODE OF ETHICS AND PROFESSIONAL CONDUCT FOR THE MEMBERS OF THE COUNCIL OF COMMISSIONERS OF THE ENGLISH MONTREAL SCHOOL BOARD

By-Law No. 3 – Resolutions: #99-01-27-3.2; #02-12-18-11; #13-04-24-7.1; #14-06-18-7.1.1; #19-04-24-10.1; #19-06-12-11.2

NOTE: The masculine gender is used in this By-Law without any discrimination and for the sole purpose of simplifying the text.

1. LEGAL FRAMEWORK

- Education Act (R.S.Q., chapter I-13.3)
- Act Respecting Elections and Referendums in Municipalities (R.S.Q., chapter E-2.2)
- Act Respecting Access to Documents Held by Public Bodies and the Protection of Personal Information (R.S.Q., chapter A-2.1)
- Civil Code of Québec
- Act to facilitate the Disclosure of Wrongdoings relating to Public Bodies (RLRQ c. D-11.1)
- Anti-Corruption Act (RLRQ c. L-6.1)
- All EMSB by-laws and Policies

2. TITLE

This By-Law is entitled: Code of Ethics and Professional Conduct for the Members of the Council of Commissioners of the English Montreal School Board (hereafter called “Code of Ethics”).

3. APPLICATION

3.1 Unless indicated otherwise, this By-Law applies to the members of the Council of Commissioners of the English Montreal School Board (hereinafter the “School Board”), as defined in section 143 of the Education Act, during their respective term of office and with regard to all their activities at or in the name of the School Board.

3.2 Notwithstanding this section 3, the obligation of confidentiality stipulated in the present By-Law applies indefinitely.

4. DEFINITIONS

4.1 Confidential Information: As part of his duties for the School Board, a commissioner has access to strictly confidential and privileged information about the School Board operations as well as personal information about others.
4.1.1. Without limiting the generality of the above, the following must be considered as **Confidential Information**:

a) Any personal information collected or kept by the School Board regarding its employees, including disciplinary measures;
b) Any personal information collected or kept by the School Board regarding its students;
c) Information regarding the investigation and/or the hearing of a complaint under this Code of Ethics;
d) Discussions on negotiations in progress;
e) Negotiations and information relative to suppliers during the tendering process;
f) Documents stamped or identified as “confidential”;
g) Information disclosed during “in camera” meetings of the Council of Commissioners, the Executive Committee, a Standing Committee, and respective Subcommittees.

4.2 **Conflict of Interest**: A situation in which a commissioner may have to choose between his private and/or personal interests and the interests of the School Board. The term interest implies a direct or indirect interest, financial or not, real, apparent or potential. This interest is distinct from public interest in general and can be perceived as such by a reasonably informed person.

4.2.1 Without limiting the generality of the above, a commissioner must be considered in a **Conflict of Interest** when:

a) He accepts or fails to disclose to the Chair and the Director General 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;
b) He directly or indirectly offers, solicits or accepts a favor or an undue advantage for himself or another person;
c) He uses or attempts to use his influence to obtain, for another person, enterprise or for himself, a benefit, employment or service offered by the School Board to which he, or that other person or enterprise is not normally entitled.

4.3 **Ethics Commissioner**: One or more than one individual appointed and mandated by the Council of Commissioners to examine or inquire into alleged or actual conduct that may be contrary to standards of ethics or professional conduct set forth in this By-Law and to impose appropriate penalties if the By-Law has been contravened.

5. **DUTIES AND OBLIGATIONS OF COMMISSIONERS**

5.1 **Chair and the Vice-Chair of the School Board**

5.1.1 In virtue of the Education Act, and more specifically Sections 155 and 158, the Chair and the Vice-Chair, when acting as the Chair, have been entrusted with additional responsibilities in comparison with regular members of the Council of commissioners.
As such, it is legitimate that the Chair and the Vice-Chair when acting as the Chair, have greater duties and obligations than the other members of the Council of Commissioners, the whole with regards with Ethics and Deontology.

5.1.2 Namely, and without limiting the generality of the above, the Chair and the Vice-Chair when acting as the Chair have the additional following duties and obligations:

a) As soon as the Chair and the Vice-Chair when acting as the Chair become aware of a situation described in sections 4.2 and 5.5 (Conflict of Interest) of the present By-Law he must inform the Director General of the School Board.

b) The Chair and the Vice-Chair when acting as the Chair must undertake in writing to abstain, for as long as the situation is not regularized, from discussing with employees of the School Board or other members of the Council of Commissioners, even privately, any file even remotely connected to the interest concerned, not to exert or attempt to exert, directly or indirectly, any influence in relation to such a file and to withdraw from any meeting while such a file is being discussed.

c) The Chair and the Vice-Chair when acting as the Chair must also expressly direct the Director General or any other employee of the School Board never to bring to his attention any information concerning such a file, but rather to refer such information to the other members of the Council of Commissioners.

5.2 General Duties of commissioners

The commissioners have the following duties and obligations:

5.2.1 The commissioner must abide by the duties and obligations prescribed by the Education Act and any other legislation referred to in Section 1, including the School Board Policies and By-Laws.

As such, the commissioner must act within the scope of the functions and powers conferred by the Education Act with due regard for everyone’s roles and responsibilities.

5.2.2 The commissioner must maintain a good attendance record in carrying out the duties of office. He may not be absent from sittings of the Council of the Commissioners, including its committees, without a valid reason.

In the event of an absence, the commissioner must inform the Secretary General and the Chair of the Council of Commissioners of the reason for the absence and its expected duration.

5.2.3 The commissioner fulfils his office with independence, integrity and good faith in the best interests of the School Board and the population served by the School Board.
5.2.4 The commissioner acts with prudence, diligence, honesty, loyalty and assiduity as would a reasonable and responsible person in similar circumstances.

5.2.5 The commissioner must avoid tarnishing the reputation of others and treat the other commissioners as well as the employees of the School Board, parent representatives, parent volunteers and the public with the highest level of professionalism and respect.

5.2.6 The commissioner must at all times adopt a style of behavior and communication that is dignified and compatible with his office in order to protect and promote the image and credibility of the School Board.

5.2.7 The commissioner must disclose any illegal or irregular situations against the School Board that he is aware of; however, in cases regarding a violation of the present Code of Ethics, a commissioner may submit a complaint to the Ethics Commissioner as per section 8 of the present By-Law.

5.3 Decisional Authority

5.3.1 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.

5.3.2 The commissioner must act democratically, in a spirit of cooperation, and must not present himself as having sole authority over the actions of the School Board.

5.3.3 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.

5.3.4 Every commissioner must act in a manner that reflects and respects the decisions of the Council of Commissioners. To that effect, once a decision has been taken by the Administration of the School Board or by the Council of Commissioners, every commissioner must act in a manner that reflects and respects said decision.

5.4 Use of Confidential Information

5.4.1 The commissioner must act with absolute discretion, both during and after his term of office, and must respect the confidential nature of personal, commercial or scientific information obtained in the performance of his duties, particularly the information disclosed during meetings of School Board authorities held in camera or in caucus.

5.4.2 Without limiting the generality of the above, the commissioner must not divulge nor use, to his profit or to the profit of a third party Confidential Information obtained in the performance of his duties.
5.4.3 The commissioner shall take all necessary measures to ensure the protection of such Confidential Information against any unauthorized access.

5.4.4 Upon his entry into office, the commissioner must submit a signed Solemn Affirmation to Respect Confidentiality on the form submitted by the School Board.

5.5 Conflict of Interest

5.5.1 The commissioner must avoid any situation of Conflict of Interest as provided by the Education Act, this By-Law and the Policies of the School Board.

5.5.2 In addition to what is specifically provided for by section 175.4 of the Education Act regarding the interests he might have in an enterprise, the commissioner must disclose any situation that places or could place, directly or indirectly, his private and/or personal interests in conflict with those of the School Board.

5.5.3 Upon his entry into office, the commissioner must identify, in writing to the Secretary General, on the form provided by the School Board, any situation or relationship which might create a Conflict of Interest or an appearance of Conflict of Interest.

5.5.4 Thereafter, this form must be completed every year on July 1st, and at any moment when a change occurs that could create such a Conflict of Interest or an appearance of Conflict of Interest under the Education Act, the present By-Law or the Policies of the School Board.

5.5.5 The commissioner must, among other things, disclose any interest he has in an enterprise doing business or having done business with the School Board and disclose, if such is the case, any real, potential or apparent situation of Conflict of Interest that might concern him.

5.5.6 The commissioner who is in a situation of Conflict of Interest or appearance of Conflict of Interest with regard to a subject treated by the Council of Commissioners must disclose it and withdraw from the session of the Council in order to allow the deliberations and the vote on this subject to take place without him.

5.6 Undue Advantage

5.6.1 The commissioner must not directly or indirectly award, solicit or accept a favour or an undue advantage for himself or another person, in exchange for speaking or taking a certain position on any issue, including one that may be brought forward to the Council of the Commissioners or any of its Committee.
5.6.2 Without limiting the generality of the above, the commissioner must not accept any gift, proof of hospitality or advantage from any person or entity that has dealings with the School Board other than those that are common within the functions and must be only of modest value.

5.6.3 In any event, no commissioner shall accept a gift if a reasonable person might conclude that the gift could influence the commissioner when performing his duties to the School Board.

5.6.4 The commissioner must refuse and disclose to the Director General, any offer of service or goods made to him by a person in order to obtain a contract or any other benefit from the School Board.

5.6.5 The commissioner must not use and/or attempt to use his title or his position in order to obtain for another person, enterprise or for himself services offered by the School Board to which he or that other person or enterprise are not normally entitled.

5.7 Breach to the Code of Ethics

5.7.1 The commissioner must be considered to be in breach of the Code of Ethics if he, namely but not limited to the following:

a) Acts in bad faith in the context of an Ethics complaint or a complaint against an Employee of the School Board, namely by filing a complaint that is abusive or based on frivolous grounds.

b) Refuses or fails to respond within a reasonable time to a written request of the Ethics Commissioner.

c) Refuses or fails to provide within a reasonable time information or a document the Ethics Commissioner has required.

d) Misleads or attempts to mislead the Ethics Commissioner in the exercise of his functions.

e) In any way hinders the Ethics Commissioner in the exercise of his functions.

f) When informed of the filing of an Ethics complaint regarding him or an investigation related to such Ethics complaint, by a person other than a commissioner, communicates, directly or indirectly, with the person who is the source of the investigation or who filed the complaint, unless he has the prior written permission of the Ethics Commissioner. The Ethics Commissioner determines in what cases and on what conditions communication is permitted.

g) Intimidates a person, retaliates or threatens to retaliate against a person because the person participated or cooperated or intends to participate or cooperate in such an investigation or complaint, reported or intends to report conduct contrary to the Code of Ethics.

h) When found guilty of having breached the Code of Ethics by the Ethics commissioner, refuses and/or neglects to abide by any and all aspects of the sanctions mentioned in the paragraphs a), b) or c) of article 8.8.3 of the Code of Ethics.
6. **REMUNERATION**

The commissioner receives the remuneration determined by the Council of Commissioners in accordance with the maximum annual amount determined by the applicable law and regulation. The commissioner is not entitled to any other remuneration.

7. **PROTECTION AGAINST CERTAIN FINANCIAL LOSSES**

7.1 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/or civil actions, penal or criminal proceedings by any third party for an act done in the exercise of his functions.

7.2 The commissioner who wishes to exercise this right must submit a written request to the Council of Commissioners.

7.3 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.

7.4 In the event where a commissioner would choose to hire a legal counsel 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 7.3;

7.5 The commissioner who chooses to hire a legal counsel independently and requests the reimbursement of the legal fees incurred to the School Board must observe the principle of proportionality and ensure that his actions, his pleadings, and the means of proof he uses are proportionate, in terms of the cost and time involved, to the nature and complexity of the Ethics complaint that concerns him.

7.6 Before submitting his indemnification claims for legal fees to the Director of Legal Services, the commissioner must ensure that:

a) The legal fees invoiced are reasonable given the circumstances;

b) The hourly rate of his legal counsel is within the prescribed hourly rate set by resolution of the Council of Commissioners upon recommendation by the Governance and Ethics Committee;

c) The invoices submitted are detailed and include the date and description of the services rendered, the number of hours and the name of the individuals who rendered the services as well as their individual hourly rate and their year of admission to the Barreau du Québec;

d) The invoices are produced no later than forty-five (45) days after the services have been rendered;

e) The claim for reimbursement is submitted within thirty (30) days from the date he received said invoices.
7.7 In the event that the Ethics commissioner concludes that the commissioner is found guilty to have acted in bad faith in the context of an Ethics complaint, the Council of Commissioners may decide to require repayment of the legal fees incurred by the concerned commissioner in the course of the Ethics complaint.

8. ENFORCEMENT MECHANISM

8.1 Ethics Commissioners

8.1.1 In order to implement this By-Law, the Council of Commissioners shall appoint by resolution one or more than one Ethics Commissioners, who will be responsible for dealing with complaints made against a commissioner for a potential breach of the Code of Ethics.

8.1.2 The Ethics Commissioners must be jurists, normally with a minimum of ten (10) years of relevant experience and duly qualified in Ethics and Deontology.

8.1.3 The Ethics Commissioners must not be members of the Council of Commissioners or employees of the School Board, in conformity with section 175.1 of the Education Act.

8.2 Term of Mandate of the Ethics Commissioners

8.2.1 The term of the mandate of the Ethics Commissioners is determined by the Council of Commissioners.

8.2.2 At the end of the term of their mandate, the Ethics Commissioners remain in office until new Ethics Commissioners are appointed by the Council of Commissioners. After this date, the Ethics Commissioners designated by the Council of Commissioners remain seized of an Ethics complaint already assigned to them until a final decision is rendered.

8.3 Coordination by the Secretary General

8.3.1 The Secretary General acts as coordinator and assists the Ethics Commissioners in their functions under the present Code of Ethics.

8.3.2 As such, the Secretary General receives the Ethics complaint, transmits it to the Ethics Commissioners and offers them the necessary and required support in the handling of such complaints.

8.3.3 The Secretary General will protect the confidentiality of the investigation and of the hearing of the Ethics complaint.

8.3.4 Without restricting the generality of the above, the Secretary General is responsible of informing the members of the Governance and Ethics Committee of the status of the Ethics complaints, of any decision rendered by the Ethics Commissioners and of any other situations that requires the attention of the members of the Governance and Ethics Committee.
8.3.5 In particular, the Secretary General is responsible to ensure that the delays mentioned in section 8.7 of the Code of Ethics are strictly abided to by the Ethics Commissioners.

8.3.6 In the event that an Ethics commissioner would fail to respect the delays mentioned in Section 8.7 of the Code of Ethics, the Secretary General will report the situation to the Council of Commissioners for appropriate action, within the terms and conditions of the agreement for professional services entered into with the Ethics Commissioners.

8.3.7 If a commissioner who is found guilty of having breached the Code of Ethics fails to comply with any and all aspects of the sanctions mentioned in paragraphs a), b) or c) of article 8.8.3, the Secretary General must inform the Ethics Commissioner of the situation, in conformity with article 8.8.5 of the present Code of Ethics.

8.4 Assignment of an Ethics Complaint

8.4.1 The Ethics Commissioners are responsible for applying the present Code.

8.4.2 The Secretary General will ensure that the assignment of an Ethics complaint is done on a rotation basis between the Ethics Commissioners.

8.4.3 Upon receipt of a complaint, the Ethics Commissioner will inform the Secretary General if he will take on the case and be able to provide his final decision within ninety (90) days of receiving the complaint (see 8.7.34).

8.4.4 If the Ethics Commissioner deems that he is unable to render his final decision within ninety (90) days of receiving the complaint (see 8.7.34), he must refuse to take on the case.

8.4.5 Should an Ethics commissioner be unable and/or refuse to take on a case, the Secretary General will assign the complaint to the following Ethics Commissioner on the list of appointed Ethics Commissioners by the Council of Commissioners.

8.5 Filing of an Ethics complaint

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

8.5.2 The Ethics complaint must be submitted in writing, duly signed and may be filed by any person aware of a breach of the Code of Ethics.

8.5.3 The Ethics complaint must be addressed to the Secretary General who will forward it to one of the Ethics Commissioner, as per the terms of the Code of Ethics.
8.5.4 The Ethics complaint must identify the other persons involved in the alleged breach of the Code of Ethics and/or any witnesses.

8.5.5 The Ethics complaint must be accompanied at the time of its filing by any and all documentation or evidence regarding the alleged breach of the Code of Ethics.

8.6 General Powers and Functions of the Ethics Commissioner

8.6.1 If the Ethics Commissioner determines that the complaint is abusive or frivolous or that an investigation is not necessary, he must state it in his decision.

8.6.2 If the Ethics Commissioner decides that probable cause exists, he shall inform the Secretary General and proceed with an investigation, the whole according to the timeline stated in Section 8.7.

8.6.3 In the event that the complainant or his legal counsel demonstrates a lack of cooperation in making himself available for the investigation and/or the hearing of a complaint, then the Ethics Commissioner shall dismiss the complaint. He shall then notify in writing the complainant, the concerned commissioner and/or their respective legal counsels and the Secretary General of his decision. This decision is final.

8.6.4 In the event that the defendant or his legal counsel demonstrates a lack of cooperation in making himself available for the investigation and/or the hearing, then the Ethics Commissioner shall proceed to render a decision by default. He shall then notify in writing, the complainant, the defendant and/or their respective legal counsels and the Secretary General of his decision. This decision is final.

8.6.5 The complainant shall have the burden of proof to establish factually that the defendant has violated any of the provisions of the Code of Ethics.

8.6.6 The investigation and/or the hearing process of an Ethics complaint shall remain confidential, until a final decision is rendered.

8.6.7 No judicial proceedings may be brought against an Ethics Commissioner for any act done in good faith in the exercise of the functions of office.

8.6.8 Except on a question of jurisdiction, no application for judicial review under the Code of Civil Procedure (chapter C-25.01) may be brought nor any injunction granted against an Ethics Commissioner in the exercise of the functions of office.
### 8.7 Timeline of the Process of an Ethics Complaint

#### RECEPTION OF A COMPLAINT AND DETERMINATION OF ITS ADMISSIBILITY

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<tr>
<th>ACTIONS</th>
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</table>
| Written Acknowledgement of receipt to the complainant | **8.7.1** Within **two (2) days** from the assignment to the Ethics commissioner of the complaint by the Secretary General, the Ethics commissioner will:  
  a) Acknowledge receipt of the complaint in writing to the complainant;  
  b) Transmit a copy of the complaint and all supporting documentation to the defendant;  
  c) Submit to the parties and the Secretary General a draft timeline with suggested dates for the steps and procedures to be followed in the process of the Ethics complaint. |
| Information to the defendant                 |                                                                                                                                                           |
| Draft timeline                               |                                                                                                                                                           |
| Agreement on the timeline                    | **8.7.2** Within **two (2) days** from the transmission of the draft timeline by the Ethics commissioners, the parties and their legal counsels must have agreed on dates and timelines. |
| Signature of the timeline                    | **8.7.3** Once the dates have been agreed upon and the timeline signed by all concerned, the parties will be bound by the dates set.                        |
| Follow-up by the Secretary General           | **8.7.4** If either party fails to agree on the dates submitted within the given delay, the Ethics Commissioner will decide on the dates applicable and will transmit to the parties a final version of the timeline. All delays indicated in said timeline are strict. This decision of the Ethics Commissioner is final. |
| Request for extension of delay               | **8.7.5** Once the timeline is final, the Ethics Commissioner must transmit it to the Secretary General for the appropriate follow-up.                        |
| Decision on the request for extension        | **8.7.6** Following the establishment of the timeline, if either party, for exceptional circumstances, needs to request an extension of any delay, said request must be done in writing to the Ethics Commissioner with a copy to the other party and to the Secretary General. |
|                                              | **8.7.7** Within **two (2) days** of the receipt of a request for an extension of delay, the Ethics Commissioner must hold a conference call between, both parties, the Secretary General and himself after which he must render his decision on the request for extension of the delay. This decision is final. |
| Admissibility of an Ethics complaint | 8.7.8 Within **five (5) days** of the receipt the Ethics complaint, the Ethics Commissioner must render a written decision on the admissibility of the complaint and will inform all parties involved as well as the Secretary General. This decision is final. |
| Inadmissibility following subsequent verifications | 8.7.9 The Ethics Commissioner must also terminate the processing or reviewing of an Ethics complaint if subsequent verifications reveal that it is not admissible. |
| Decision | 8.7.10 In the event that the complaint is deemed **admissible**, the Ethics Commissioner will investigate the allegations as per the timeline described below; |
| 8.7.11 In the event that the Ethics complaint is deemed **inadmissible**, the decision of the Ethics commissioner is deemed final and is not subject to any appeal. |

### CONDUCTION OF THE INVESTIGATION

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<th>ACTIONS</th>
<th>TIME DELAYS AND DESCRIPTION</th>
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<tr>
<td>Investigation on the allegations of the Ethics complaint</td>
<td><strong>8.7.12</strong> Following the decision on the admissibility of the Ethics complaint, the Ethics Commissioner verifies whether a violation of the Code of Ethics has been committed in accordance with the established timeline.</td>
</tr>
<tr>
<td>Length of the investigation</td>
<td><strong>8.7.13</strong> In any event, the investigation process must be completed within <strong>sixty (60) days</strong> from the written decision of the Ethics commissioner on the admissibility of the complaint.</td>
</tr>
<tr>
<td>Obligations of the Ethics Commissioners</td>
<td><strong>8.7.14</strong> In the context of his investigation, the Ethics commissioner must act promptly and diligently and ensures that all the necessary elements of evidence are obtained in order to render a decision that is just for all parties.</td>
</tr>
<tr>
<td>8.7.15 As such, he can decide to meet with the various witnesses mentioned by the parties and/or obtain their testimonials in writing, by phone or by any other means that allows the persons to communicate directly with each other while ensuring the credibility of the testimonial.</td>
<td></td>
</tr>
<tr>
<td>Transmission by defendant of his defense</td>
<td><strong>8.7.16</strong> Within <strong>ten (10) days</strong> of the decision on the admissibility of the Ethics complaint, the defendant must transmit his arguments and all of his supporting documents to the Ethics Commissioner.</td>
</tr>
<tr>
<td>Decision by default</td>
<td><strong>8.7.17</strong> In the event that the defendant would not transmit to the Ethics commissioner his defense and supporting documents within the given delay, the Ethics commissioner will inform in writing the defendant that a decision by default could be rendered against him in the <strong>next five (5) days</strong>. This decision of the Ethics Commissioner is final.</td>
</tr>
<tr>
<td>Hearing in the context of the investigation</td>
<td>8.7.18</td>
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<td>Date of the hearing</td>
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<td>Convocation to an hearing</td>
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<td>Representation of complainant</td>
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<td>Role and responsibilities of the Ethics Commissioner</td>
<td>8.7.22</td>
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</table>
| Decision of the Ethics Commissioner | 8.7.23 | The Ethics Commissioner presides the hearing and determines, in consultation with the parties, the following:  
  a) the witnesses to be heard;  
  b) the order, the length, the topic of the testimonial;  
  c) the individuals present in the room during the testimonial;  
  d) whether questions can be asked to the witnesses by the parties;  
  e) the length of the hearing;  
  f) the impact of the default for one party or witness to be present at the hearing;  
  g) any other decision that is required in the context of this hearing. |
| Conclusion of the Investigation process | 8.7.24 | All decisions of the Ethics Commissioner with regards with the process of the hearing are final. |
| Request to re-open the investigation | 8.7.25 | The Ethics Commissioner must inform the parties and the Secretary General in writing, within the **sixty (60) days** delay that the investigation is closed. |
| Decision on the request to re-open the investigation | 8.7.26 | Once the investigation is declared closed by the Ethics Commissioner, the parties are foreclosed to present any additional evidence, unless exceptional circumstances justify the re-opening of the investigation. |
|  | 8.7.27 | Such a request to re-open the investigation must be justified and made in writing with a copy to the other party and the Secretary General. |
|  | 8.7.28 | Within **two (2) days** of the receipt of a request for the re-opening of the investigation process, the Ethics Commissioner must hold a conference call between himself, both parties and the Secretary General after which he must render his decision on the request. This decision is final. |
## DELIBERATION AND DECISION OF THE ETHICS COMMISSIONER

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<th>8.7.29 Following the conclusion of the investigation the Ethics Commissioner will take the affair under deliberation.</th>
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<tbody>
<tr>
<td>Request of the Ethics Commissioner to extend the delay for rendering his decision</td>
<td>8.7.30 Within <strong>five (5) days</strong> from the date of conclusion of the investigation the Ethics Commissioner may request, through the Secretary General, a meeting with the Council of Commissioners in order to present a request to extend his delay for rendering his decision.</td>
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<tr>
<td>Content of the request</td>
<td>8.7.31 This written request must contain the reasons for the extension of delay, and must be sent to all parties concerned.</td>
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<tr>
<td>Presentation to the Council of Commissioners</td>
<td>8.7.32 The parties can be present at the meeting of the Council of Commissioners to present their views on the request for extension of delay.</td>
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<td>8.7.33 The Ethics Commissioner will render his decision no later than <strong>thirty (30) days</strong> following the closing of the investigation, unless expressly authorized to render his decision at a later date by the Council of Commissioners, as per sections 8.7.31 to 8.7.34 of the Code of Ethics.</td>
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<tr>
<td>Final decision</td>
<td>8.7.34 In any event, the Ethics Commissioner will render his decision within <strong>ninety (90) days</strong> from the date on which he was assigned the complaint by the Secretary General unless expressly authorized to render his decision at a later date by the Council of Commissioners as per sections 8.7.31 to 8.7.34 of the Code of Ethics.</td>
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### 8.8 Decision and Sanctions

8.8.1 Following his investigation, the Ethics Commissioner must decide whether or not the Code of Ethics was breached. He may take into consideration any judgment regarding an Ethics complaint involving the commissioner during the same mandate.

8.8.2 If the Ethics Commissioner considers that the commissioner did not breach the Code of Ethics, he will so inform the complainant and the defendant. His decision will be sent to the Secretary General indicating that the file is closed. All such decisions are public and shall be recorded in the minutes of the Council of Commissioners.

8.8.3 If the Ethics Commissioner considers that the commissioner did breach the Code of Ethics, he may consider any of the following sanctions or decide to impose more than one sanction concurrently:

a) a call to order written by the Ethics Commissioner and read by the Chair during the public session of the meeting of the Council of commissioners, accompanied or not by a public apology;
b) a public apology written by the Ethics Commissioner and read by the commissioner identified as the defendant in the ethics complaint during a public meeting of the Council of Commissioners;

c) a written reprimand written by the Ethics Commissioner and read by the Chair at a public meeting of the Council of Commissioners;

d) the reimbursement of any unlawful profit;

e) a withdrawal, for a maximum of six (6) months, of the School Board services and privileges normally given to commissioners;

f) a suspension, for a maximum of six (6) months, of part or all of the attributions and functions of a commissioner, except the right to participate and vote in the public meetings of the Council of Commissioners;

g) a suspension of the commissioner's remuneration. This is applied for the period in which the commissioner was no longer rendering the services for which he received remuneration;

h) a penalty of a specific amount up to a maximum of 1 000,00$;

i) a recommendation to the Council of Commissioners to request the reimbursement by the commissioner of the legal fees assumed by the School Board for its defence in the said Ethics complaint, but only if the Ethics Commissioner concludes that the commissioner has acted in bad faith;

j) a recommendation to the Council of Commissioners that an action to declare the commissioner disqualified be taken in accordance with section 329 of the Civil Code of Quebec

8.8.4 In the event that the Ethics Commissioner would impose one of the sanctions mentioned in paragraphs a), b) or c) of article 8.8.3, the call to order, the public apology or the written reprimand must be written by the Ethics Commissioner and included in his final decision.

8.8.5 If the Ethics Commissioner is informed by the Secretary General that the commissioner identified as the defendant in the ethics complaint failed to comply with any and all aspects of the sanctions mentioned in paragraphs a), b) or c) of article 8.8.3, the Ethics Commissioner must impose one or more subsequent and more severe sanction(s) to the commissioner who neglected and/or refused to comply with the decision.

8.8.6 If the Ethics Commissioner concludes that a request for an inquiry instituted by a commissioner was made in bad faith, for personal reasons or with an intent to harm, the Ethics Commissioner may recommend in the report on the matter that one or more of the sanctions provided for in section 8.8.3 be imposed to that commissioner.

8.8.7 All decisions of the Ethics Commissioner must specify whether or not the commissioner performed in good faith in the discharge of his functions with regard with the complaint received.
8.8.8 All decisions rendered by the Ethics Commissioner are public. The Ethics Commissioner shall forward his decision and the sanction(s) to the Council of Commissioners. The decision and the sanction(s) shall be recorded in the minutes of the Council of Commissioners.

8.8.9 The decisions of the Ethics Commissioner shall state the grounds on which they are based and be rendered in writing.

8.8.10 The Ethics Commissioners must present a report to the Council of Commissioners no later than September 30th for the school year which ended the previous June 30th for the purpose of section 10 below.

9. PROTECTION AND CONSERVATION OF DOCUMENTS

9.1 Any document received, created or collected by the Ethics Commissioner in the context of an Ethics complaint must be deposited and kept with the Secretary General Office.

9.2 Once a conclusion is reached with regards with an Ethics complaint, the Ethics Commissioner must remit it to the Secretary General, under sealed envelope, all documentation relating to the Ethics complaint, including namely the complaint, the response by the commissioner concerned, the transcription of the testimonials as well as his personal notes.

9.3 Any documents related to an Ethics complaint will be destroyed according to the “Calendrier de conservation des documents” applicable at the School Board.

10. ANNUAL REPORT

10.1 The School Board shall publish the Code of Ethics in its annual report. The annual report shall, in addition, provide the number of cases dealt by the Ethics Commissioner, the decisions rendered and the sanctions imposed by the Ethics Commissioner or any competent authorities as well as the names of any commissioners sanctioned during the year.

11. ABROGATION

The present By-Law replaces By-Law No. 3 (2019) adopted on April 24, 2019 by Resolution #19-04-24-10.1.

12. COMING INTO FORCE AND TRANSITORY DISPOSITIONS

This By-Law comes into force upon public notice to this effect. All ethics complaints received before the coming into force of this By-Law will continue to be managed according to the previous By-Law, adopted by Resolution #19-04-24-10.1.

(s) (s)
Angela Mancini Mô Nathalie Lauzière
Chairman Secretary General