

Rights & Responsibilities

a Resource Guide for School Trustees



British Columbia
School Trustees
Association

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Board Roles + Responsibilities

An organization's or an individual's roles describe the manner of their involvement and their expected contributions. Responsibilities describe the specific requirements they undertake in discharging these roles.

"The secret to effectiveness is understanding the different roles within an organization and how those roles relate. The secret formula is not an organization chart; it is a map to clarify the roles and relationships within an effective organization."¹

Strategic + foundational roles

The board has a strategic role. The board takes on the responsibility for the success of the entire district in developing a strategic plan, or road-map, to move the school district towards the realization of its short and long-term goals. The board's strategic role relates directly to its responsibility for oversight of the school district's resources and to ensure educational programs and services meet the needs of all students. Alignment of the strategic plan to the district budget ensures the most effective and efficient use of public funds.

The board also has a foundational role. The board must competently protect the interests, image and credibility of the school district to ensure its financial viability and to act in accordance with all applicable laws, regulations and policies (enacted by the government or the board itself). To fulfill this foundational role, individual trustees must adhere to their fiduciary duties.

¹ *The Imperfect Board Member: Discovering the Seven Disciplines of Governance Excellence*, Jim Brown, Jossey-Bass, 2006



Governance

A board of education's primary function is the governance of the school district and oversight of student achievement through a strong strategic plan that directs resources, informs policy development and aligns the work of staff.

Board governance outlines how the board operates to make and implement its decisions. In practice, good board governance specifies the distribution of rights and responsibilities among the different contributors to the work of the board: trustees, senior administration, school administration, teachers, support staff, parents, students and the community.

By statute, B.C.'s publicly elected boards of education have a co-governance relationship with the provincial government, i.e., the two levels of government have shared responsibility for governing the province's public K-12 education system. The School Act is premised on the Ministry of Education and boards of education working together to achieve the goals and purposes established by the province for the public education system. Boards represent the educational aspirations of their local communities. They also serve as a link to the provincial government and the general direction it sets for K-12 education. The existing co-governance relationship between the provincial government and boards is outlined in the Memorandum of Understanding (MoU).

Oversight + delegation

Boards are the primary means by which local school districts and their employees are held accountable. The board (but not individual trustees) must put in place the necessary policies, procedures and reporting to ensure all parts and levels of the school district are operating effectively and efficiently. In short, the board is responsible for the oversight of the district at the highest level.

Being responsible at the highest level does not mean that the board is responsible for undertaking every action needed to ensure each employee, department or school is performing appropriately. It is the superintendent, as CEO, who holds the responsibility for the day-to-day work in this area, or for the delegation of the work to various people and groups within the organization. The secretary-treasurer, as the statutory corporate financial officer of the board, is responsible to the board and the Ministry of Education for financial statements, corporate records, minutes and procedural documents of the district.



Working with the superintendent + senior staff

The superintendent/CEO is the only district employee who reports directly to the board. Assignment of duties to district staff flow from the superintendent, as does information from district staff to the trustees.

Perhaps more than any other issue, the appropriate division of roles and responsibilities between the board and staff may lead to conflict within school districts. While there is somewhat of a range of answers as to what is the appropriate division of powers, it is critical that an accepted division is detailed in district policy and is supported by all trustees as well as senior staff.

In defining how the roles and responsibilities of the board and superintendent (representing all staff) should be best divided, it is important to consider three key points:

- A.** Individual trustees have no legal authority or stipulated power on their own. It is only the corporate board as a whole that holds power. All decisions of any significance, as well as direction to the superintendent, must come from the board and not from individual trustees.
- B.** The *School Act* assigns specific responsibilities to the board of education, the superintendent and the district's secretary-treasurer. These responsibilities cannot be ignored or overridden, even where they come into conflict with local direction.

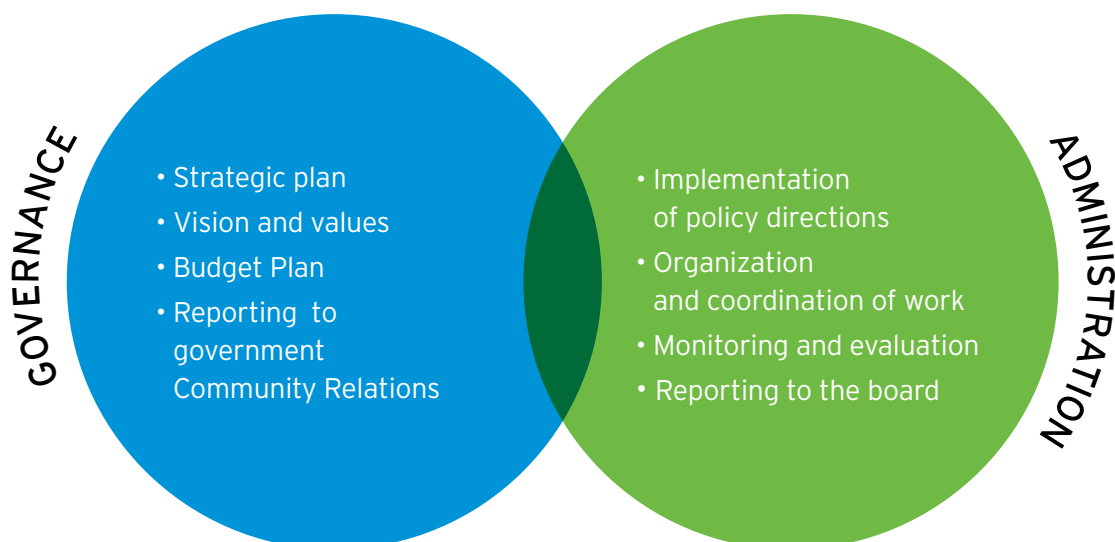
- C.** It is the role of the board to govern the school district, and not to run the day-to-day operations of the school district. This is a critical distinction that needs to be kept at the forefront when constructing policy that outlines roles and responsibilities

It is assumed that all of the major functions of the school district operation are the primary responsibility of the superintendent/CEO and not the board of education. The staff of a school district are hired because of their extensive education, expertise and experience. The role of the board and individual trustees is not to take over the assigned duties of staff, but rather to set the vision, policy and oversight mechanisms necessary to ensure they, through the superintendent, are held accountable to the communities they have been elected to represent.

This graphic shows how the division of responsibilities between the governance role of the board and the operational role of the superintendent and staff might be defined. A specific policy considering the unique needs of each district should be developed by each board.

The relationship between trustees and the superintendent provides the underpinnings of a trusting, respectful, dynamic and progressive system.

How the board and superintendent work together sets an example for the entire school system and community, and influences the culture and values of the schools, staff, students and parents.



Interactions between trustees and other staff

Trustees are reminded that no one trustee, not even the chairperson, has the authority to direct staff, at the district or school level. As stated previously, all staff report to the superintendent or their designated supervisor. Trustees should be mindful in their interactions with staff of the reporting relationships established within the district and the expectations that staff have regarding the role of a trustee.

Both the corporate board and individual trustees should refrain from intruding in the day-to-day operations of the system. However, trustees should expect that the superintendent will encourage their appropriate involvement, support, and perspective when making decisions and carrying out the policy directions of the corporate board. It is essential to note that clarity and adherence to defined roles is essential to the effective operation of the system and schools.

“Governing well is no easy task. It takes knowledge, skill and experience. It takes courage and character. And it takes teamwork, in the sense of everyone bringing their unique talents and backgrounds to work together for the best interests of the people the board serves.”

*International Association
for Public Participation (IAP2) Canada*



Advocacy

Boards have an important role in the area of advocacy. Advocacy is about influencing public opinion or attitudes regarding issues that affect people's lives. As part of the board's advocacy plan, trustees may advocate for a variety of issues in areas such as funding, student services, early childhood education, children's mental health, etc.

Advocacy calls on boards of education to speak out for the needs of their local school district, and public education as a whole. Advocacy reflects the purpose of what boards are trying to achieve. It does not, at any time, overshadow the responsibility to govern the school district as effectively and efficiently as possible. Rather, advocacy adds another key component to this role: speaking out on behalf of all students and the vision for a strong public education system.

Lobbying

The terms advocacy and lobbying are often used interchangeably, but there are distinct differences in their purpose, method and intent. Lobbying refers to efforts to influence politicians and senior government staff about particular legislation, with intent to achieve a specific change, or outcome, from the legislation.

These distinctions are important to be aware of; however, there are times when an advocacy strategy will include elements of lobbying. For example, advocacy for funding could also involve lobbying for specific changes in government policy or legislation.



Trustee Roles + Responsibilities

How boards conduct their business is as important as the business they conduct. Public confidence should increase as communities observe their trustees in action.

Legal duties

Once elected, individual school trustees take on certain specified responsibilities or requirements as defined in legislation and law. It is important for all trustees to know their legal responsibilities, but also to be aware of what is not included in the School Act, common law or other legislation as there are many misconceptions.

Trustee responsibilities under the School Act include the following:

- "...will faithfully perform the duties of [the] office, and will not allow any private interest to influence [the trustee's] conduct in public matters." [School Trustee Oath of Office Regulation].
- "...will abide by the School Act" and "faithfully perform the duties of...[the] office, and will not allow any private interest to influence [the trustee's] conduct in public matters [[School Trustee Oath of Office Regulation].
- "...will comply with the requirements of the School Act that relate to conflict of interest and, in particular, [trustees] will comply with the requirements relating to disclosure of pecuniary and indirect pecuniary interest in a matter" [School Trustee Oath Office Regulation].
- "...individual trustees may not exercise the rights, duties and powers of the board." [School Act, s. 65(3)].

- Attend meetings of the board. "If a trustee is continuously absent from board meetings for a period of 3 consecutive months, unless the absence is because of illness or with the leave of the board, the office of the member is deemed to be vacant and the person who held the office is disqualified from holding office as a trustee until the next general school election." [School Act, 52(2)].

- Refrain from disturbing or interrupting the proceedings of a board meeting [School Act, s. 70].

- Protect "privacy and confidentiality of students and families" [School Act, s. 79].

- Comply with board policies, procedures and bylaws.

There are also some other requirements found in legislation outside of the School Act.

Trustees must:

- Comply with laws including the School Act, Freedom of Information and Protection of Privacy Act, the Human Rights Code, the Workers' Compensation Act (i.e. refrain from bullying and harassing staff) and other applicable legislation.

Common law also provides trustees with responsibilities and expectations that must be met:

- Respect confidentiality.

- Duty of care (act honestly and in good faith with the best interests of the organization in mind).

- Duty of loyalty.



- Avoid conflicts (pecuniary and non-pecuniary).

There are, of course, a wide variety of factors that must be considered in determining whether or not an individual school trustee has fulfilled their responsibilities in all three areas. Determining fault, or a failure to adhere to the 'rules,' can be a very complex process. Before embarking on any investigative or disciplinary process, BCSTA strongly recommends boards seek expert legal advice. As in all areas of law, fair and transparent processes are vital.

BCSTA can provide general information on trustee responsibilities and related processes but does not represent boards or individual trustees in proceedings

Fiduciary duties

The term fiduciary duty must be fully understood before discussing individual trustees' responsibilities in discharging their roles. From *Black's Law Dictionary*: a fiduciary duty is "a duty to act for someone else's benefit, while subordinating one's personal interests to that of the other person." This is to say, a trustee has a specific obligation to act in good-faith and in the best interests of one another.

Information regarding fiduciary duties is described by the Chartered Professional Accountants (CPA) Canada:

"Directors of not-for-profit organizations have various duties and responsibilities. The most fundamental of these responsibilities is the duty of directors to act in the best interests of the organization they serve at all times, even at the expense of their own self-interest. This is known as fiduciary duty. The term 'fiduciary' is a legal term intended to refer to a person who, because of the position they hold, has a responsibility to act primarily for another's benefit."

20 Questions Directors of Not-For-Profit Organizations Should Ask About Fiduciary Duty, Jane Burke-Robertson, CPA Canada, 2009

Trustees' fiduciary duties can be divided into two main elements: the duty of care and the duty of loyalty.

Duty of care

Trustees have a duty of competence, i.e., a requirement to act with a certain level of skill. The duty of care refers to the level of attention required of a trustee. It can be described as a "duty to be informed" and to act with competence and diligence. A trustee must generally be informed about an issue before making a business decision relating to it. Trustees are not required to be experts, but rather to act in accordance within this standard of care.

Duty of loyalty

The duty of loyalty requires that a trustee act honestly and in good faith in the best interests of the organization. This duty of loyalty supports a trustee in being able to competently protect the interests, image and credibility of the school district. This also means that a trustee generally is not allowed to profit from their office and must avoid all situations in which their duty to the organization conflicts with their interests or duties to others (the "no-conflict" rule).

Generally, board policy sets out the roles and responsibilities that a trustee, as a member of the corporate board, is required to undertake. A trustee has authority only insofar as their voice and vote influence the corporate action of the school board. Two specific roles are described on the next page.

Community representative role

A trustee's community representative role is not directly a governance role. Governance is at its most effective when it embraces community perspectives brought by individual trustees. Indeed, proactive community participation is a crucial part of good governance by the board. A trustee's job is to maintain a focus on student achievement and well-being, and to participate in making decisions that benefit the entire district, while at the same time representing the interests of the community.

The key is achieving a balance between the governance authority of the board as a whole and the representative role each individual trustee also fulfills. While trustees act as representatives of their community, their primary job is to participate in policy-making and strategic planning that are in the interests of all the district's students and are grounded in promoting student achievement and well-being. Trustees balance their governance role with their representative role, participating in decision-making that benefits the whole district while representing the interests of their constituents.

In carrying out their role, trustees have the 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 board decisions are at variance with the interests of a particular geographical constituency, demographic population or interest group .

Constituency role

A trustee's constituency role is their personal interface with the public they serve. The personal nature of the communications at this level is part of the daily life of a trustee. This can be rewarding and also challenging.

Eli Mina observes that when trustees continually advocate for their own constituents, the board becomes fractured, with trustees pulling in different directions. It is important for every trustee to present constituent views, but it is also important that they ultimately place collective interests ahead of individual constituent input. Once having presented constituent input, trustees should then switch to learning from the input of their colleagues, the superintendent and other advisors.

Receiving inquiries and concerns

When constituents call they are usually seeking solutions to a particular issue related to a student or a school. In responding to an individual constituent's concerns, a trustee can share insights about the steps to be taken to clarify or help solve the issue.

Resolution or clarification is often achieved through referral to the appropriate member of the superintendent's team of senior staff. By whatever means the issue is settled, it is vital for every

trustee to remember that all matters will need to be considered within the context of the board's policies and the procedures that flow from them.

The trustee may feel the issue is of such a nature that it needs to be brought before the board at a board meeting. It is important for the trustee to be aware that the matter then belongs to the whole board.

At that point, all board members have a collective responsibility to consider the matter. If a decision is made, individual trustees are required to uphold the board's decision.

Reporting to constituents

In reporting back to their constituents, trustees will naturally want to communicate the board's views and the decisions of the board clearly and in a timely manner. However, it is important that they first be familiar with board policies that may apply to issues under discussion between trustees and their constituents. In some cases, trustees are provided support and advice from the superintendent and senior staff.





Trustee communications

Trustees are role models in the community. What trustees say and do will be scrutinized. It is prudent for to always be sensitive to the response they may elicit from the community when offering commentary on a particular subject. It is also important that they consider how their communication may be perceived by students. When communicating as a trustee, give consideration to the following:

Board policies and procedures

A trustee should become familiar with relevant board policies that may provide guidance regarding communications by trustees. For example, some boards have policies regarding communications, spokespersons and specific trustee roles and responsibilities.

Communicating personal views

When communicating personal views, a trustee should clearly indicate that they are speaking on their own behalf and not on behalf of the board of education.

Confidentiality

A trustee needs to carefully consider whether they have authorization to publicly disclose information that they wish to share. Laws, such as the *Freedom of Information and Protection of Privacy Act* (FOIPPA), place limits on the use and disclosure of information in the possession and control of public bodies, such as boards of education. A trustee should also be aware of board decisions to address certain business in closed meetings and to limit public disclosure of this business.

Human rights

A trustee's communications may give rise to allegations of a breach of the BC Human Rights Code. The Code outlines prohibited grounds of discrimination, including: race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity or expression or age. Of particular relevance to trustees and their boards are the Code provisions regarding discrimination in services, discrimination in employment and discriminatory publication. Complaints of discrimination may be made by school district employees, students, members of the public, etc.

Defamation

A trustee's communications may give rise to allegations of defamation, i.e., injury to a person's reputation. A person may start a lawsuit claiming an entitlement to compensation for the statements that were made about them.

Copyright

Another issue to consider is whether a trustee has authorization to copy, post or otherwise distribute work that belongs to others.

Bullying and harassment

Trustee conduct may give rise to allegations of bullying and harassment. Allegations of this nature may be pursued in various forums, including through WorkSafeBC, civil court proceedings and criminal prosecutions.



Who speaks on behalf of the board?

The board's spokesperson is specifically designated by the board. Ideally, the board will have adopted a policy indicating who that person will be. It is most often the board chairperson, the superintendent or the communications director.

If the board has designated a single media spokesperson, there may nevertheless be times when having someone else speak on behalf of the board makes more sense. When the question relates to some technicality of education finance it may be that the secretary-treasurer is the best spokesperson, even if the board chairperson normally fulfills that role. A communications protocol that allows for this possibility, perhaps by allowing the usual spokesperson to delegate the responsibility on a case-by-case basis, may be helpful.

When communicating regarding a decision of the board that an individual trustee does not agree with, a good adage for guiding comments is to speak your mind without undermining the board.

What do I do if I'm not the spokesperson, but am contacted for comment?

Redirect the caller, who will most likely be a reporter, to the appropriate spokesperson in accordance with the board's communications protocol. When declining an interview, always be gracious about the reporter's having brought the request to you. They didn't have to contact you but chose to do so because they've heard positive things about you and/or in the past they've been able to trust you to provide insightful answers to their questions quickly and efficiently. Thank them for thinking of you but immediately redirect them to the spokesperson.

If I disagree with a board decision, should I say so in public?

As an individual trustee, you have an opportunity to make your views known on each and every matter that comes before the board. If you want to make sure there is a record of your opposition to a decision, the official board minutes can provide that record. Once that opportunity has played itself out, and the board has made its decision, you should ordinarily restrict yourself to one of three courses of action:

- Acknowledge that the decision reflects the opinion of the majority of the board and accept it.
- Work through procedural channels to change that decision.
- Recognize the will of the majority and do not undermine the decision. Trustees make decisions as a collective body. They "actively participate in debate about the merits of a decision, but once a decision has been made, all members will recognize the democratic majority, ideally acknowledging its rationale, when articulating their opinions on a decision." (UBCM *Getting Started on a Code of Conduct for Your Council / Board*, 2018).

Eli Mina notes that it is unrealistic to expect a trustee who voted in the minority to actively promote the board decision, rather than merely accept it as a legitimate collective outcome. The former expectation is also unfair since it may require someone to make dishonest statements of support.



Conflict of interest

One part of the *School Act* that is particularly important for trustees is Part 5, which describes the law regarding pecuniary (financial) conflict of interest. In addition to the pecuniary conflict-of-interest rules set out in the *School Act*, trustees should be mindful of the common law/non-pecuniary conflict-of-interest rules that arise from the common law (case law). Concerns about conflict of interest are often grounded in perceptions about relationships and the use or misuse of information.

A trustee has a pecuniary interest in a matter if a board decision could result in a potential financial or material impact on the trustee or certain people or organizations associated with the trustee (e.g., the trustee's spouse). Boards and individual trustees need to be vigilant in avoiding active engagement in discussion, debate, decision-making or even being privy to information that can give rise to actual, or even perceived, conflicts of interest. Such conflicts could include a trustee who has a spousal relationship with an employee, or whose employer could reasonably be expected to be monetarily affected by a board decision. In such instances privileged access to information raises concerns, even if the trustee does not participate in debate and refrains from voting.

The board chairperson and secretary-treasurer are often involved in advising trustees or officials when they are in a potential conflict position. In addition, legal counsel may be consulted regarding questions about potential conflicts of interest.

Once individuals recognize their potential conflict, they should remove themselves from involvement in the matter, following the procedure set out in the *School Act*.

If a trustee has a conflict of interest in a matter that is coming before a meeting of the board, they should let the board chairperson know. When the item comes up at the meeting, the trustee must:

- State that they have a pecuniary interest in the matter.
- State the general nature of the pecuniary interest.
- If the meeting is closed to the public, leave the meeting until the matter has been dealt with.
- Not take part in any discussion of the matter.
- Not attempt in any way to influence the voting on any question in respect of the matter, before, during or after the meeting, and/
- Abstain from voting on any question in respect of the matter.

A trustee's declaration and withdrawal will be recorded in the minutes of the meeting. This does not apply to pecuniary interests that are too remote or insignificant to reasonably be considered as likely to influence the trustee.

Any elector can apply to the B.C. Supreme Court for a court order stating that the trustee has failed to comply with the requirements of the School Act if the elector is of the view that a trustee breached the Act's conflict-of-interest provisions. If a court determines that a trustee has indeed breached the Act's conflict-of-interest provisions, the trustee is disqualified as a trustee, unless the court finds that the trustee broke the law through inadvertence or a good-faith error in judgment. If the trustee gained financially from the breach of the conflict laws, the court may order the trustee to pay back their gains.

Conflicts of interest can also be an issue for board officials and staff members. Undisclosed conflicts can breach terms of employment

A trustee with community, union or employment affiliations

Although this is somewhat less common, some trustees also have community, union or employment involvement that brings them into direct or perceived conflict with their role as a board of education member.

Trustees who wish to participate in labour relations and some human resource processes within their school district should consider the conflict-of-interest guidelines in the BC Public School Employers' Association Bylaws.

A trustee may have an individual circumstance that they are unsure about. In this event, it may be helpful to discuss their concern with the board chairperson, the superintendent, secretary-treasurer or even the district's legal counsel before making a final determination as to the conflicts that exist. The repercussions of a poor decision can be significant and may bring about unwanted or unforeseen consequences.

A trustee as parent

In some cases, trustees may have children enrolled in school within their district. This creates a number of unique considerations for them, especially in regard to conflict of interest, both under the School Act and by perception. The situation also raises some practical considerations for both the trustee and their child(ren)'s school.

An important first point is that every situation must be considered on an individual basis. There is no one set of rules or guidelines that can be applied to every situation. However, the following should be helpful in guiding the trustee through the various considerations and decisions that will need to be addressed.

- A. If a trustee has children attending a district school, are they in a conflict-of-interest situation in regard to every decision regarding the district? No. It is accepted that every person has some connection to the school system, their local school district and the schools within it. Simply having children attending a school within the school district does not put a trustee into a conflict-of-interest situation.
- B. What circumstances might put a trustee into a conflict-of-interest situation regarding their own children attending school in the same district? In general, the more closely or directly decisions affect their own children, the more likely a trustee would be considered to be in conflict. For example, participating in the decision as to whether or not to close the school their children attend would almost certainly be considered to be in conflict in regard to that decision. The fact that the decision to close or not close the school has a direct impact on the trustee's family puts them in at least a perceived conflict-of-interest situation.
 - On being elected to the board of education, should a trustee continue to fully participate as a parent at their child's school? Attending school events when parents are invited, meeting with the school administrators or teachers to discuss their child's progress or volunteering at PAC events are all items that in general would be appropriate for a trustee as a parent.

Situations that trustees should avoid include: participation in staff discipline processes for this school, challenging the decision of a teacher or administrator, using their position to gain entrance to meetings not intended for parents or circumventing usual processes that apply to parents. In short, a trustee should avoid participating in any processes or situations where it might be perceived that their role gives them (or their child) an unfair advantage or potentially intimidates staff or other parents. While there may be no intent on the trustee's behalf to gain an unfair advantage or intimidate other persons, it is the reasonable perception of others that matters the most.

Individual circumstance must also be considered. A trustee may wish to have their spouse or partner take on all situations where their official role could be seen as a concern. A trustee who is a single parent, however, would not have this option. Other circumstances may also necessitate participating in processes or events even though the situation is not ideal. Consideration should be provided that a child not be significantly disadvantaged just because their parent is a trustee.

- Should a trustee be the designated trustee representative to their child's school? Most often the answer to this question is no. When possible, it is preferable that a trustee with children at a particular school not be assigned to any official roles in regard to that school. While there may be unique geographic circumstances or other special considerations that make other options impractical, it should be the last option. It is in everyone's best interest to choose other options such as having another trustee take on any official roles in regard to the school.

It may be helpful to discuss your situation of being both trustee and parent with other trustees, the superintendent, school principal or even other parents before making a decision. Regardless of the decision you make in the end, be up front with everyone about your decision and the reasons behind it.

Trustee Relationships, Rights & Conflict Resolution

A trustee is a member of a team; the board of education. Only the board has the authority to make decisions or to take action; individual trustees in and of themselves do not have this authority.

The *School Act* makes it very clear that a board of education is a corporate body, and that its rights, duties and powers reside with the board and not with individual trustees (*School Act* section 65).

In discharging their responsibilities, and to make for an effective board, trustees share some very important characteristics:

- A strong desire to serve children and their community, as well as a strong belief in the value of public schools.
- Recognition that authority rests with the board as a corporate body, not with individual trustees, and that they must work with their colleagues in order to achieve their goals.
- Ability to identify when and how to leverage the knowledge, skills and experiences of their colleagues to best serve the interests of students and the community.
- Effective listening and engagement skills.
- Willingness to spend the time required to become informed and to do the preparation needed to take part in effective school board meetings.
- Maintaining open minds and having the ability to compromise in coming to a decision.
- Striving for high levels of trust and honesty.
- Respect for the needs and feelings of other people and a well-developed sense of fair play.
- The courage to recognize negative or unproductive behaviour and come up with a plan for addressing such behaviours.



Trustee relationships

Working as part of any board requires effort and the majority of the work of boards is conducted through relationships. Boards that enjoy strong relationships and good board dynamics have a positive effect on the leadership. Board dynamics can be defined as the way trustees interact with each other in carrying out their duties. Examples include how trustees interact with each other, how constructive their conversations are, how they make decisions and how well they can have vigorous debates while being respectful.

Facilitating sound relationships is an important part of each trustee's responsibility. This includes:

Creating a climate of trust by working through political and personal differences in the interests of healthy debate and good decision-making.

Bringing a spirit of cooperation, collaboration and teamwork into the boardroom, where each of these skills is critical for good governance.

Speaking with candor, without a sense of confrontation.

Healthy relationships between trustees also provide them with the necessary confidence to identify the occasional, and almost inevitable, situations where board communications do break down and negative dynamics get in the way of a board's success.

Personal style, accumulated experience and knowledge and a trustee's own vision and aspirations all influence how they interact with others. With regard the personal style of colleagues, a trustee might consider:

- The degree to which each trustee colleague is quiet and thoughtful, or more spontaneous.
- Whether each trustee colleague prefers facts and details, or is more attracted to the big picture.
- Which trustees have a preference to work things out logically, or rely on an emotional response to situations to help them decide.
- Which trustees are frustrated by long discussions without decisions, or are energized by endless possibilities.

The challenge in building healthy relationships is for each trustee to have an independent mindset while being aligned to the district's goals.

Rights of individual trustees

As a board of education member each individual trustee has a right to:

- Contribute within an environment that is free from bullying, harassment and discriminatory behaviour.
- Space to express individual opinions.
- Access to information within board policy.
- Abstention from decisions or processes.
- Decline participation in voluntary activities or events.
- Speak publicly about their individual opinions or objections to board decisions.
- Raise concerns about information, process and decisions of the board and district.
- Express personal values and vision that are different from those of the majority of the board and /or community, while upholding the BC Human Rights Code.

Conflict Resolution

Unavoidably, conflict sometimes occurs. When it does, considerations for managing conflict include:

Interpersonal Communications

No amount of written policy statements or role descriptions can substitute for regular attention to good communications practices in board meetings and e-mail communication. Trustees and senior staff should have a conversation about such practices on a regular basis.

Board Meeting “Ground Rules”

Boards could consider devoting some time, at least once a year, to reflect on and discuss good communication practices. On an individual level this includes: balancing inquiry (asking questions of one another) and advocacy (stating their own viewpoint), being aware of assumptions and being more intentional in listening to one another. Trustees can be more effective if each person puts into practice the principle that one “seeks first to understand, and then to be understood.”

Strategic Plan

The existence of a strategic plan or involvement in a strategic planning process that helps articulate goals, objectives and outcomes can be of great value in reducing the potential for conflict over the meaning of the organizational mission, strategic choices and priorities.

Roles and Responsibilities

Boards should regularly strive to clarify the roles and responsibilities of individual trustees and officers (especially the chairperson) and the board’s role concerning staff. This is helpful in establishing mutual respect. Job descriptions outlining duties and responsibilities can also be helpful but are seldom sufficient for clarifying roles, especially where board and staff responsibilities overlap, such as in determining and working on strategic objectives.

Code of Conduct

A written code of conduct for trustees that sets standards and rules for their relationship with one another, the superintendent and senior staff is very valuable. A code of conduct ought to set some rules on issues such as confidentiality, conflict of interest, conduct at meetings and speaking with “one voice.”

Chairperson Leadership

An effective board chairperson is critical to managing conflict. Such effectiveness comes from clarity about the chairperson’s role, an understanding of the importance of process and the liberal use of proven facilitation techniques. A strong collegial relationship between the chairperson and the other trustees is highly desirable. In electing a fellow trustee to this leadership position, the other trustees are placing confidence in the chairperson to facilitate the board in its work. They expect that the chairperson will:

- Ensure that all trustees have the information needed for informed discussion of the agenda items.
- In a timely way, share relevant information that has come to the chairperson’s office on emerging issues that affect schools and the community.
- Collaborate with other trustees around the role of board spokesperson (e.g., issues where particular board members have specific expertise).
- Set a tone for board meetings that stimulates respect and focuses discussion on the issues.
- Ensure that meetings are run effectively and that all voices are heard.
- Be impartial in handling the business of the board and in professional relationships with all trustees.
- Maintain the confidence of all colleague trustees.
- Provide leadership in the professional development of trustees and ensure regular review of the effectiveness of the collective board.
- Provide leadership in fostering positive relationships between the board and the superintendent and senior staff, where appropriate.

Conflict Resolution Processes

Before a conflict arises, boards as a whole and individual trustees can benefit from some familiarity with negotiation and conflict resolution processes. Some understanding of these processes helps an organization determine the appropriate mechanism for a particular situation, including when outside assistance might be of value. Conflict resolution is regarded as a core skill area for today’s leaders. It can be added to the list of professional development topics to be considered for the board of education.

Initial Steps to Resolve Conflict

Acknowledge the conflict

The conflict has to be acknowledged before it can be managed and resolved. The tendency is for people to ignore the first signs of conflict, perhaps as it seems trivial, or is difficult to differentiate from the normal, healthy debate that boards can thrive on. If you are concerned about the conflict in your board, discuss it with the chairperson.

Agree to a cooperative process

Everyone involved must agree to cooperate in to resolve the conflict. This means putting the board first and may involve setting aside your opinion or ideas for the time being. If someone wants to win more than they want to resolve the conflict, you may find yourself at a stalemate.

Agree to communicate

The most important thing throughout the resolution process is for everyone to keep communications open. The people involved need to talk about the issue and discuss their strong feelings. Active listening is essential here, because to move on you need to really understand where the other person is coming from

When a Board is Frequently Divided

Trustees will have different viewpoints and it is unreasonable to expect that all decisions of the board will be unanimous. When trustees, with varying viewpoints, experiences, skills and opinions are tasked with a decision, the combined effort can far surpass what any group of similar individuals could achieve. Board members must be open to these differences and not let them rise into full-blown disputes.

When decisions are arrived at through a majority, it is important to understand and appreciate the various viewpoints raised during debate. Lack of unanimity is not a bad outcome, provided trustees continue to demonstrate respect for each other and maintain an open mind in future discussions.

The important thing is to maintain a healthy balance of constructive difference of opinion and avoid negative conflict that is destructive and disruptive.



Establishing Expectations

Code of Conduct

In the previous section it was suggested that boards establish a code of conduct around expectations in trustee relationships. Boards may also want to consider establishing a code of conduct to ensure trustees are aware of expectations regarding their roles and responsibilities.

Boards may have already done work in establishing character attributes or values for the district; these are a vital starting point in working out the relationships that are the underpinning of effective board governance. Through a code of conduct, boards enshrine values that guide the ethical behaviour and norms for relationships among trustees.

A code of conduct is not intended to prevent individual trustees from expressing their opinions on issues under consideration by the board. If used effectively the code of conduct can serve to encourage respect for divergent views and help boards focus their efforts on student achievement, equity and well-being. The code is intended to provide a common understanding about how to conduct the board of education's work with appropriate authority and integrity and promote public confidence in doing so.



Trustee codes of conduct are not required under the B.C. School Act. The Act serves to define acceptable behaviours, clarify the rules of civil engagement, promote high standards of practice and provide a framework for professional conduct and responsibilities. Codes of conduct should reflect the principles that many boards already incorporate in their expectations of trustee conduct or ethics. These commonly cover such issues as:

A. Integrity:

- All decisions will be based on putting students first.
- Trustees will carry out their responsibilities in accordance with the School Act, Regulations and board policy.
- Trustees will make all decisions based on available facts and their independent judgment, and shall refuse to surrender that judgment to individuals or special-interest groups.
- Trustees will act with the highest standards of professional integrity and in a manner that inspires public confidence in the board.

B. Respect:

- While trustees will express their individual opinions on issues under consideration by the board, in doing so they will respect the differing points of view of colleagues, staff and the public and enhance public confidence in the work of the board in doing so.
- Trustees will carefully review all information packages in preparation for discussion at all scheduled meetings of the board and its committees.

C. Confidentiality:

- Trustees will maintain confidentiality of privileged information, including information discussed in closed sessions.

D. Responsibility

- Once the board has voted, trustees are bound by the majority decision and will publicly uphold the board's decisions.
- Trustees will recognize that the expenditure of board funds is a public trust and will ensure effective stewardship of the board's resources in the best interests of the students.

E. Conflict of Interest

- Trustees will voluntarily and immediately declare any pecuniary conflict of interest (direct, indirect or deemed) in matters before the board or a committee of the board.

F. Relationships

- Trustees will speak as the voice of their entire community (including people who do not have children in the school system or people outside of their direct constituency) at the board table.
- Trustees will work with their colleague trustees in a spirit of respect, openness, courtesy and cooperation in spite of differences of opinion that may arise during debate. They will refrain from gossip.
- Trustees will refrain from any negative commentary (public or private) about the superintendent or other members of district staff.

Trustee orientation

To communicate expectations, a comprehensive trustee orientation program following election to office is very valuable. A sound trustee orientation will cover a variety of topics relevant to the district context. During the orientation, the following specific areas that will benefit understanding roles, responsibilities and relationships may be reviewed:

- Getting to know fellow trustees.
- Mission, vision and values of the district.
- Strategic plan, district goals and operational work plans.
- Board code of conduct and any related policies.
- Senior staff roles and responsibilities.
- District resources available to trustees, such as policy manuals, trustee handbooks, etc.

Trustees also benefit from orientation materials and sessions during BCSTA's annual Trustee Academy.

Board policies

It is valuable to have policies that help create clarity so that problems and issues can be minimized. Such policies describe the following: roles for the board and individual trustees, communication plans and board spokespersons, media response protocols and board and committee meeting procedures.

To avoid disputes additional policies describing the parameters for the following are helpful:

- Professional development.
- Access to information.
- Gifts and hospitality.
- Use of board property, services and other resources.

The learning guide

The Learning Guide is provided to BCSTA member boards of education and their individual member trustees as a resource to support their work in all aspects of their roles, both formal and informal. It is not a prescribed curriculum, nor is it the sole source of information that boards or individual trustees should consider. The contents cover all aspects of the work of both boards and individual trustees. The Guide provides a solid foundation of knowledge and skills on which successful governance, oversight and advocacy can be built.

Board performance review

Leading practices in governance indicate that effective boards establish formal processes for evaluating the performance of the board as a whole on an ongoing basis. This process is usually conducted regularly and must have the full participation of all trustees to be truly effective. BCSTA offers a self-review process, the Board Performance Review (BPR), to member boards.

The Board Performance Review provides a process embedded in a context of continuous improvement. It is intended to help improve governance, increase accountability, demonstrate leadership and create a foundation for continuous improvement.

Practices + Behaviors that Create Problems

There are a number of practices that create issues for the board and are to be avoided. These include:

- A failure to do board business in a board or committee meeting, commonly referred to as "parking lot meetings."
- Inappropriate emails regarding agenda items or meeting topics.
- Pre-meeting caucuses with groups of trustees and/or union groups or community groups.
- Trustees, or the chair, acting unilaterally and outside their scope of authority.
- Disclosure of confidential information to outside parties.
- Placing constituency interests ahead of broad organizational interests.
- Violation of conflict of interest guidelines.
- Introduction of late agenda items and motions "on the fly."
- Dominating in debate or during committee meetings.
- Losing composure during meetings.
- Being unprepared for meetings.
- Nitpicking on small procedural details



Addressing Issues + Code of Conduct Violations

A trustee who has reasonable grounds to believe that another trustee has breached the board's code of conduct may bring the alleged breach to the attention of the board of trustees. Boards must inquire into any reasonable allegation of a code of conduct violation brought to the board's attention. Boards may hire a neutral third-party investigator to investigate the complaint and recommend possible sanction(s) if necessary.

In addressing any concerns regarding trustee relationships and behavior, consideration of the factors on the next page may be of value. Confidentiality and procedural fairness are key to addressing issues effectively.



Positive presuppositions

Trustees who exhibit counterproductive behaviour may not realize they are creating difficulties for the board as a whole. Accordingly, the first recourse in responding to them should be to take a charitable understanding of their motivations.

Informal conversations

Wherever possible, an initial colleague-to-colleague approach is desirable. A private conversation that focuses less on motivations and more on the areas of conflict can be helpful. Another positive response is taking opportunities to ask the trustee for their opinions in situations where they may have opposing views. It is always productive to listen actively and sincerely. It is never productive to characterize the issue in personal terms. If dysfunctional behaviour persists to the detriment of the effectiveness of the board, the board's code of conduct or similar policy statement can provide guidance.

Mediated conversations

If a colleague-to-colleague conversation is not possible, or a resolution is not found, a trustee will engage the chairperson (or vice-chairperson if the respondent is the chairperson) in order to find a resolution. This could involve the chairperson organizing a meeting or initiating a third party to help mediate the conversation.

Formal complaints

Codes of conduct may include administrative procedures to follow when issues arise. These procedures can provide guidance as to the steps to undertake when there are perceived breaches of the code of conduct. It is recommended that details of each step within both formal and informal processes be outlined so that expectations are clear for all trustees. Legal counsel should review any processes developed, to ensure that these reflect best practices and fairly protect the rights of all board members.

If an informal complaint process is not successful an official complaint is triggered by a trustee writing a formal letter to the chairperson (or vice-chairperson, if the respondent is the chairperson) describing the complaint and referencing relevant section(s) of the code of conduct, policy or legislation. It is recommended that complaints be made within a designated time-frame from the alleged event.

An in-camera board meeting must be scheduled to discuss the complaint in a timely manner. At this in-camera meeting decisions need to be made on how the complaint will be investigated. Rules for investigations and hearings need to be in place.

A hearing will then take place in-camera. It is recommended that the meeting format allow both the complainant and the respondent to explain their respective sides of the issue. If an investigator is required, a process needs to be in place for board members to read the report prior to the hearing. It is also recommended that all materials pertaining to the complaints process and investigation remain in-camera and be maintained in a secure place with procedures for access.

Board members who are neither the complainant nor the respondent, and are not in conflict of interest, need to decide how to resolve the complaint. Sanctioning the respondent may be an option. As well, making the complaint and its results public needs to be discussed. In the event of a formal/serious complaint, it is recommended that legal counsel be sought to provide advice regarding the process.

Sanctions + disciplinary measures

If proactive measures do not result in changed behaviour, disciplinary measures for code-of-conduct violations may be imposed in a remedial and restorative manner, reflecting the seriousness of the breach.

These measures may include:

- Having the offending trustee write a letter of apology.
- Having the offending trustee participate in a restorative justice process.
- Having the offending trustee participate in specific training, coaching or counselling as directed by the board of education.
- Having a motion of censure passed by a majority of the voting trustees at a closed, i.e., in-camera board meeting.
- Having a motion to remove the offending trustee from one, some, or all board committees or other appointments passed by a majority of voting trustees at an in-camera board meeting.
- A trustee who is barred from attending all, or part of, a meeting of a board of education, or a meeting of a committee of the board, is not entitled to receive any materials relating to that meeting or that part of the meeting which are not available to members of the public
- The imposition of a disciplinary measure barring a trustee from attending all, or part of, a board of education meeting shall be deemed to be the authorization for the trustee to be absent from the meeting, and therefore not in violation of the School Act regarding absences from meetings.

The board of education may, at its discretion and by resolution of the voting trustees, make public the outcome(s) of the official complaint process if the board considers this reasonable and appropriate.

The board should be careful to avoid disclosing details that identify third parties (e.g., students, staff, parents, etc.), or disclose confidential information (e.g., confidential board business), when publicly releasing information about the nature of the disciplinary action taken at an in-camera board meeting and the general nature of the conduct that gave rise to discipline. The board must comply with its obligations to protect the privacy of others under the *School Act* and the *Freedom of Information and Protection of Privacy Act*.

Support for Handling Conflict

BCSTA provides a variety of supports to assist boards with both internal and external conflict. This can include, but is not limited to, conflict between individual trustees, the board as a whole or non-employment related issues with senior district staff. BCSTA does not make decisions, impose penalties nor take sides in any such dispute. The association's role is to provide information, guidance, legal support and resources as to how conflicts may be resolved by, or through a board itself.

BCSTA's Learning Guide contains in-depth materials on governance, leadership, roles and responsibilities and communications. BCSTA also provides professional learning programs to help trustees and boards be successful in their roles. Such learning opportunities are provided at the association, branch, board and individual levels.

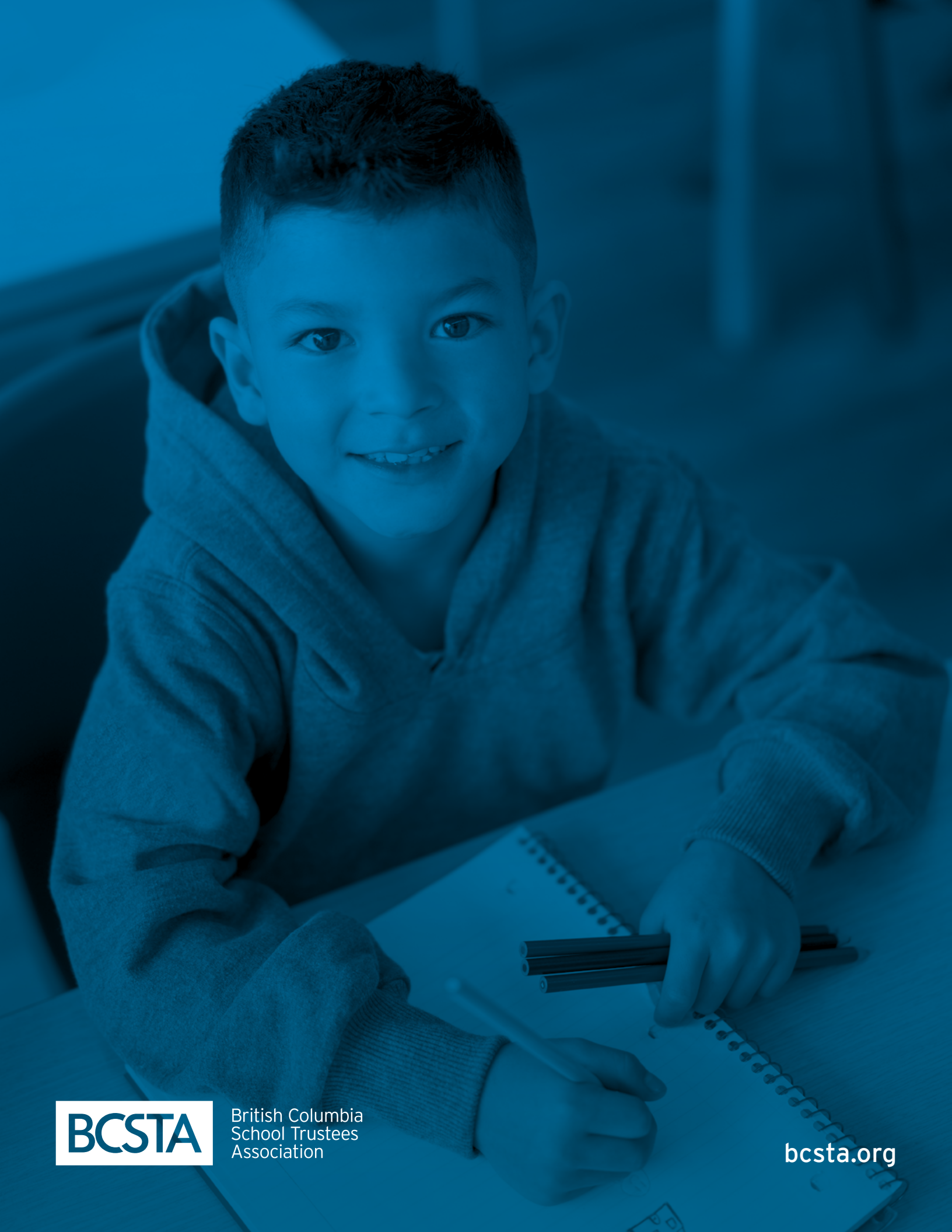
Boards experiencing issues are encouraged to contact BCSTA for resources and supports. Services range from coaching, mediation, individualized board development and self-evaluation. Where more extensive mediation and conflict resolution is needed, BCSTA can suggest resources, consultation services, legal advice and facilitations.

Disagreement and differences of opinion are to be expected as a part of the democratic processes. Disagreement over perspectives, goals, direction and priorities should not be considered conflict nor a reason for discipline. The most important consideration is whether or not trustees are fair, ethical and respectful in how they deal with their colleagues, staff and the public.

The best way to deal with conflict is for every trustee to work to ensure it does not happen, while feeling free to express their point of view and respecting those of others.

When conflict does arise, often the best place to start with resolving the matter is respectful discussion between the parties themselves. BCSTA can, however, provide assistance to member boards when it is requested.





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