

Policy

Title: Board of Health Code of Conduct

Reference number: 2015 - 0002

Approved by: Ottawa Board of Health

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Policy Statement

The Board of Health believes that its Members are held to a high standard of ethical behaviour in all aspects of their conduct at all times and should endeavour to fulfill their duties in a way that maintains and enhances public confidence in the Board of Health.

The Board represents the public interest and considers the well-being and health of the residents of Ottawa while carrying out its duties under the *Health Protection and Promotion Act* or any other Act. In determining which services the health unit provides, and in developing and evaluating the policies and programs for the health unit, the Board ensures the accountability and transparency of the operations of the health unit.

Legislative Reference/Authority

Board Member conduct is governed by by-laws and policies of the Board of Health, as adopted and as amended from time to time, as well as by the following provincial and federal legislation:

- the *Health Protection and Promotion Act*;
- the *Municipal Act, 2001*;
- the *Municipal Conflict of Interest Act*;
- the *Municipal Freedom of Information and Protection of Privacy Act*;
- the *Personal Health Information Protection Act, 2004*;
- the *Occupational Health and Safety Act*;
- the *Ontario Human Rights Code*; and
- the *Criminal Code of Canada*.

Application

This Code of Conduct applies to all Members of Ottawa Board of Health when acting in their official capacity.

Definitions

“**Independent third-party investigator**” means a person retained, on a case-by-case basis, to classify and investigate formal complaints and to report to the Board of Health on his or her findings, the terms of any settlement and/or any recommended corrective action in accordance with this policy and the corresponding Complaint Protocol;

the terms “**child**”, “**parent**” and “**spouse**” have the same meanings as in the *Municipal Conflict of Interest Act*.

(a) “**child**” means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;

(b) “**parent**” means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;

(c) “**spouse**” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage.

I. Integrity

- Members of the Board are committed to performing their functions with integrity, accountability and transparency.
- Members of the Board are responsible for complying with all applicable legislation, Board of Health by-laws and policies pertaining to their position as an appointed Board Member.
- Members of the Board recognize that the public has a right to open government and transparent decision-making.
- Members of the Board will, at all times, serve and be seen to serve the interests of residents of the health unit in a conscientious and diligent manner and will approach decision-making with an open mind.
- Members will avoid the improper use of the influence of their office and will avoid conflicts of interest, both apparent and real.

- Members of the Board will avoid, in the discharge in their official duties, preferential treatment to any individual or organization if a reasonably well-informed person would conclude that the preferential treatment was solely for the purpose of advancing a private or personal interest.

II. Confidentiality

Members of the Board may acquire confidential information from a variety of different sources including personal and/or personal health information related to residents or other confidential/proprietary information that is not personal.

In accordance with the rules under *Municipal Freedom of Information and Protection of Privacy Act* (“MFIPPA”), *Personal Health Information Protection Act, 2004* (PHIPA), Board by-laws and Board policies, Members of the Board will:

- Keep in confidence any confidential information acquired by virtue of their position as a Board Member, in either oral or written form, except when required by law or authorized by the Board to do otherwise;
- Where a matter has been discussed *in camera*, keep the matter or the substance of the deliberations of the *in camera* meeting confidential (Subsection 40 (1) (d) of the *Procedure By-law*); and
- Refrain from using information that is obtained in his or her capacity as a Member and that is not available to the general public to further or seek to further the Member’s private interest or improperly to further or seek to further another person’s private interest.

III. Conduct at Board Meetings

Members of the Board will conduct themselves with decorum at all Board of Health meetings in accordance with the provisions of the *Procedure By-law* by:

- Using respectful language;
- Obeying the Rules of Procedure, or a decision of the Chair or of the Board, on questions of order or practice or upon the interpretation of the Rules of Procedure;
- Recognizing that individual decisions and directions to staff are taken by the Board as a whole;
- Board authority is not vested in any individual when interacting with staff, public, or media, except when explicitly authorized by the Board; and
- Understanding that Board Members may not speak for the Board in public except to

reiterate stated Board decisions.

IV. Discrimination and Harassment

All Members of the Board have a duty to treat members of the public, one another and staff with respect and without abuse, bullying or intimidation; and to ensure that their work environment is free from discrimination and harassment. The *Ontario Human Rights Code* as well as the *Occupational Health and Safety Act* apply and, where applicable, the City of Ottawa's *Workplace Harassment Policy*.

V. Use of Influence

Members of the Board are expected to perform their duties of office with integrity, accountability and transparency. Members of the Board should not use the status of their position to influence the decision of another individual to the private advantage of oneself, or one's parents, children or spouse, staff members, friends, or associates, business or otherwise.

VI. Conduct Respecting Staff

Members of the Board will be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from an individual Member or group of Members of the Board.

VII. Use of Property and Resources

In order to fulfill their roles, Members of the Board may, from time to time, have access to Board resources such as property, equipment, services, staff and supplies. No Member of the Board of Health shall use or permit the use of such resources for activities other than purposes connected with the discharge of Board of Health duties.

VIII. Gifts, Benefits and Hospitality

Members of the Board of Health shall not accept gifts that would, to a reasonable member of the public, appear to be in gratitude for influence, to induce influence, or otherwise to go beyond the necessary and appropriate public functions involved. For these purposes, a gift, benefit or hospitality provided with the Member's knowledge to a Member's spouse, child, or parent, that is connected directly or indirectly to the performance of the Member's duties is deemed to be a gift to that Member.

The following are recognized as exceptions to this prohibition:

- (a) compensation authorized by law;
- (b) such gifts, benefits tickets to events or hospitality that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;

- (c) a political contribution otherwise reported by law, in the case of Members running for office;
- (d) services provided without compensation by persons volunteering their time;
- (e) a suitable memento of a function honouring the Member;
- (f) food, lodging, transportation and entertainment provided by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity;
- (g) food and beverages consumed at banquets, receptions or similar events, if attendance serves a legitimate business purpose;
- (h) communications connected with the role of a Member, including subscriptions to newspapers and periodicals; and
- (i) gifts of a nominal value (e.g. baseball cap, t-shirt, flash drive, book, etc.).

IX. Election-Related Activity

Pursuant to the *Municipal Elections Act, 1996*, public funds are not to be used for any election-related purposes, including the promotion of or opposition to the candidacy of a person for elected office.

- (a) The use of board resources, both actual property and staff time, for election-related activity is strictly prohibited. The prohibition applies to both the promotion and opposition to the candidacy of a person for elected office. Election-related activity applies to campaigns for municipal, provincial and federal office.
- (b) A citizen member shall not engage in political campaigning of any sort (municipally, provincially or federally) on behalf of the Board of Health or as a member of the Board of Health.

X. Compliance with the Code

Members of the Board of Health are expected to adhere to the provisions of the Code of Conduct.

Appendix A to this Code of Conduct outlines the complaint process and procedures. Formal complaints can be submitted in writing at OttawaBoardofHealth@Ottawa.ca and must meet the requirements described in Part 2 of Appendix A.

When in receipt of a report from an independent third-party investigator where, in his or her opinion, there has been a violation of the Code of Conduct, the Board of Health may consider one or more of the following sanctions:

1. A reprimand;
2. Request a written or verbal apology to the Board, to the complainant, or both;
3. Require the repayment or reimbursement of moneys improperly received by the member or received by another person at the direction of the member;
4. Require the return of a gift or benefit or reimbursement of its value;
5. Remove as Chair or Vice-Chair in the case of a violation involving the Chair or Vice-Chair;
6. Recommend that City Council revoke the Member's appointment to the Board of Health.

Appendix "A"

Complaint Protocol

Part 1 - Informal Complaint Procedure

Informal Complaints

1. Any individual who identifies or witnesses behaviour or activity by a member of the Ottawa Board of Health, that appears to be in contravention of the Code of Conduct for Members of the Board of Health (the "Code of Conduct") may address the prohibited behaviour or activity themselves in the following manner:
 - (a) Advise the member that the behaviour or activity appears to contravene the Code of Conduct;
 - (b) Encourage the member to acknowledge and agree to stop the prohibited behaviour or activity and to avoid future occurrences of the prohibited behaviour or activity;
 - (c) Document the incidents including dates, times, locations, other persons present, and any other relevant information;
 - (d) Request the Board Chair, with support from the Medical Officer of Health, as needed, to assist in informal discussion of the alleged complaint with the member in an attempt to resolve the issue, or in the case of behavior or activity involving the Chair, the Vice-Chair may provide such assistance, with support from the Medical Officer of Health, as needed; (such request can be made via email to OttawaBoardofHealth@Ottawa.ca)
 - (e) If applicable, confirm to the member your satisfaction with the response of the member; or, if applicable, advise the member of your dissatisfaction with the response; and
 - (f) Consider the need to pursue the matter in accordance with the formal complaint procedure outlined in Part II, or in accordance with any other applicable judicial or quasi-judicial process or complaint procedure.
2. Individuals are encouraged to pursue this informal complaint procedure as the first means of remedying behaviour or an activity that they believe violates the Code of Conduct. With the consent of both the complaining individual and the member, the Board Chair may participate in any informal process pursuant to 1(d) above. In the case of behaviour or activity involving the Chair, the Vice-Chair may participate in any informal process.

The parties involved are encouraged to take advantage of the mediation/conciliation process outlined at 1(d) above, however the informal process is not a precondition or a prerequisite to pursuing the formal complaint procedure outlined in Part II.

Part 2 - Formal Complaint Procedure

Formal Complaints

3. Any individual who identifies or witnesses behaviour or an activity by a member of the Ottawa Board of Health, that they believe is in contravention of the Code of Conduct for Members of the Board of Health, may file a formal complaint in accordance with the following conditions:
 - (a) All complaints shall be made in writing and shall be dated and signed by an identifiable individual.
 - (b) The complaint must set out reasonable and probable grounds for the allegation that the member has contravened the Code of Conduct. A supporting affidavit setting out the evidence in support of the allegation must also be included.
 - (c) If the complainant is a member of the Board, their identity shall not be protected if the independent third-party investigator finds that the complaint was not made in good faith.
 - (d) The Board of Health may also, by public motion, file a complaint and/or request an investigation of any of the Board's membership.

Filing of Complaint and Classification

4. The complaint shall be filed with the Board Secretary (via designated email at OttawaBoardofHealth@Ottawa.ca) who shall forward the matter to an independent third-party investigator for initial classification to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code of Conduct and not covered by other legislation or other policies as described in Section 5.

If the complaint does not include a supporting affidavit, the Board Secretary may defer forwarding it to an independent third-party investigator for classification until an affidavit is received.

Complaints Outside Jurisdiction

5. If the complaint, including any supporting affidavit, is not, on its face, a complaint with respect to non-compliance with the Board of Health Code of Conduct or the complaint is covered by other legislation or complaint procedure, the independent third-party investigator shall advise the complainant in writing as follows:

Criminal Matter

- (a) If the complaint on its face is an allegation of a criminal nature consistent with the *Criminal Code of Canada*, the complainant shall be advised that if the complainant wishes to pursue any such allegation, the complainant must pursue it with the appropriate Police Service.

Other Policy Applies

- (b) If the complaint seems to fall under another policy, the complainant shall be advised to pursue the matter under such policy.

Lack of Jurisdiction

- (c) If the complaint is, for any other reason not within Board of Health jurisdiction, the complainant shall be so advised and provided with any additional reasons and referrals as the independent third-party investigator considers appropriate.

Matter Already Pending

- (d) If the complaint is in relation to a matter which is subject to an outstanding complaint under another process, such as a court proceeding, a Human Rights complaint or similar process, the independent third-party investigator may, in his/her sole discretion and in accordance with legislation, suspend any investigation pending the result of the other process.

Annual Report to the Board

- 6. The Board Secretary shall ensure that a report is brought forward to the Board of Health annually on all complaints received via the designated email address at OttawaBoardofHealth@Ottawa.ca and on their disposition, including complaints deemed not to be within jurisdiction.

In the event that no complaints are received in a given year, no report will be submitted to the Board.

Refusal to Conduct Investigation

- 7. If the independent third-party investigator is of the opinion that the referral of a matter to him or her is frivolous, vexatious, **serves no useful purpose** or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the independent third-party investigator **shall not conduct** an investigation and, where this becomes apparent in the course of an investigation, **shall** terminate the investigation.

Opportunities for Resolution

8. Following receipt and review of a formal complaint, or at any time during the investigation, where the independent third-party investigator believes that an opportunity to resolve the matter may be successfully pursued without a formal investigation, and both the complainant and the member agree, efforts may be pursued to achieve an informal resolution.

Investigation

9. (a) The independent third-party investigator will proceed as follows:
 - i. Provide the complaint and supporting material to the member whose conduct is in question with a request that a written response to the allegation be provided within ten business days; and
 - ii. **May** provide a copy of the Member's response **or portions thereof** to the complainant with a request for a written reply within ten business days.
- (b) If necessary, after reviewing the submitted materials, the independent third-party investigator may speak to anyone, access and examine any other documents or electronic materials and may enter public health facilities relevant to the complaint for the purpose of investigation and potential resolution.
- (c) The independent third-party investigator may make interim reports to the Board of Health where necessary and as required to address any instances of interference, obstruction, delay or retaliation encountered during the investigation.
- (d) If the independent third-party investigator has not completed an investigation before Nomination Day for a regular election, as set out in the Municipal Elections Act, 1996, the independent third-party investigator shall terminate the inquiry on that day.
 - i. If an investigation is terminated in accordance with Subsection 9(d), the independent third-party investigator shall not commence another inquiry in respect of the matter unless, within six weeks after Voting Day in a regular election, the complainant who made the request or the member or former member whose conduct is concerned makes a written request that the investigation be commenced.
- (e) The Board Secretary shall retain all records related to the complaint and investigation.

No Complaint Prior to Municipal Election

10. Notwithstanding any other provision of this Protocol, no complaint may be referred to an independent third-party investigator during the period of time starting on Nomination Day and ending on Voting Day in any year in which a regular municipal election will be held, as set out in the Municipal Elections Act, 1996.

Recommendation Report

11. (a) The independent third-party investigator shall report to the complainant and the member generally no later than 90 days after the intake process has been completed and an investigation has been commenced. If the investigation process takes more than 90 days, the independent third-party investigator shall provide an interim report and must advise the parties of the date the report will be available.
- (b) Following the completion of an investigation, the third-party investigator shall provide the member with a copy of a draft report and offer the member the opportunity to provide comments within five business days.
- (c) Where the complaint is sustained in whole or in part, the independent third-party investigator shall report to the Board of Health outlining the findings, the terms of any settlement and/or any recommended corrective action.
- (d) The Board Secretary shall give a copy of the report to the complainant and the member whose conduct is concerned. The member shall have the right of reply when the report is considered by the Board.
- (e) Where the complaint is not sustained, except for in exceptional circumstances, the independent third-party investigator shall not report to the Board of Health the result of the investigation except as part of an annual report.

Member not Blameworthy

12. If the independent third-party investigator determines that there has been no contravention of the Code of Conduct or that a contravention occurred although the member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgment made in good faith, the independent third-party investigator may so state in the report and may make appropriate recommendations pursuant to the Code of Conduct or any other policy or legislation.

No Reports Prior to Municipal Election

13. Notwithstanding any other provision of this Protocol, an independent third-party investigator shall not make any report to the Board of Health or to any other person during the period of time starting on Nomination Day and ending on Voting Day in any

year in which a regular municipal election will be held, as set out in the *Municipal Elections Act, 1996*.

Duty of the Board

14. Following completion of a report, the Board of Health shall consider and respond to it without undue delay. The member who is the subject of the complaint shall have the right of reply at the meeting where the report is considered.

Public Disclosure

15. (a) An independent third-party investigator and every person acting under his or her jurisdiction shall preserve confidentiality where appropriate and where this does not interfere with the course of any investigation, except as required by law and as required by this complaint protocol.
- (b) The Board Secretary shall retain all records related to the complaint and investigation.
- (c) At the time of the independent third-party investigator's report to the Board of Health, the identity of the person who is the subject of the complaint shall not be treated as confidential information if the independent third-party investigator finds that a breach has occurred.
- (d) All reports from an independent third-party investigator to the Board of Health will be made available to the public through the public posting of Board Agendas.