

## Identifying a Breach of the Code

1. A Representative or member of a Representative Body as defined in the OPSBA Code of Conduct ("Code") who has reasonable grounds to believe that another Representative or member of a Representative Body has breached the Code may bring the alleged breach to the attention of the President of the OPSBA ("President"). OPSBA's First Vice-President, Second Vice-President, together with the President constitutes the committee ("Committee") that determines whether or not a breach of the Code has occurred.
2. Any allegation of a breach of the Code must be brought to the attention of the President no later than six (6) weeks after the breach comes to the knowledge of a Representative or member of a Representative Body who is reporting the breach. In no circumstance shall an inquiry into a breach of the Code be undertaken after the expiration of six (6) months from the time the contravention is alleged to have occurred.
3. It is expected that whenever possible, allegations of a breach of the Code by a Representative or member of a Representative Body shall be investigated following an informal complaint procedure. It is recognized that from time-to-time a contravention of the Code may occur that is trivial, or committed through inadvertence, or an error of judgment made in good faith. In the spirit of collegiality and the best interests of OPSBA, the first purpose of alerting a Representative or member of a Representative Body to a breach of the Code is to assist them in understanding their obligations under the Code. Only serious and/or reoccurring breaches of the Code by a Representative or member of a Representative Body should be formally investigated.
4. The Code applies equally to the President. In the case of an allegation of a breach of the Code by the President, wherever a process requires action by the President, this Procedure shall be modified to read the First Vice-President of OPSBA. If OPSBA's First Vice-President or Second Vice-President are alleged to have breached the code, or if a member of the Committee is of the opinion that they cannot carry out their investigative or decision-making duties for whatever reason, OPSBA's Executive Council, as defined in OPSBA's Constitution will appoint another one of its Members to the Committee to ensure there are three representatives on the Committee.
5. The President or Presiding Officer ("Chair") of any meeting of the OPSBA Board of Directors, Council, Caucus, or Work Group shall exercise their powers in a fair and impartial manner having due regard for the opinions and views of every Representative and/or member of that Representative Body .

6. The President or Chair shall follow the rules of order of the OPSBA and/or the adopted Rules of Order and meeting procedures contained in any Policy or By-Law of the OPSBA. A breach of a rule of order should be dealt with at the meeting in question by a Representative or member of that Representative Body by rising to a point of order or appealing a ruling of the President or Chair in accordance with any applicable rule of order. Once such a matter is addressed, all Representatives and members of the Representative Body shall abide by that decision and no further action shall be undertaken pursuant to the enforcement of the Code, except for persistent improper use of the applicable rules of order by the President or Chair.

### ***Informal Complaint Procedure***

7. The President on their own initiative, or at the request of a Representative or member of a Representative Body (without the necessity of providing a formal written complaint) who alleges a breach of the Code has occurred, may meet informally with the Representative or member of the Representative Body who is alleged to have breached the Code, to discuss the concern. The purpose of the meeting is to bring the allegation of the breach to the attention of the Representative or member of the Representative Body and to discuss remedial measures to correct the offending behaviour. This is conducted in private.
8. The remedial measures may include, for example, a warning, an apology, and/or the requirement of the Representative or member of a Representative Body to engage in the successful completion of mutually agreed upon professional learning such as, but not limited to, that offered by the Ontario Education Services Corporation.
9. If the President and the Representative or member of a Representative Body who is alleged to have breached the Code cannot agree on a remedy, then a formal complaint may be brought against the Representative or member of a Representative Body who is alleged to have breached the Code.

### ***Formal Complaint Procedure***

10. A Representative or member of a Representative Body who has reasonable grounds to believe that another Representative or member of a Representative Body has breached the Code may bring the breach to the attention of the President, by first providing to the President a written, signed (electronic/email signature will be accepted) complaint setting out the following:
  - (i) the name of the Representative or member of a Representative Body who is alleged to have breached the Code;
  - (ii) the alleged breach or breaches of the Code;
  - (iii) information as to when the breach came to the Representative or member of a Representative Bodies attention;

- (iv) the grounds for the belief by the Representative or member of a Representative Body that a breach of the Code has occurred; and
  - (v) the names and contact information of any witnesses to the breach or any other persons who have relevant information regarding the alleged breach.
11. The President shall provide to the Representative or member of a Representative Body who is alleged to have breached the Code and the Committee a confidential copy of the complaint within a reasonable period of time after receiving it. The complaint, any response to the complaint and the investigation of the complaint shall be confidential.
  12. If the President is of the opinion that the complaint is out of time, trivial, frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for a formal inquiry, a formal inquiry shall not be conducted and a confidential report stating the reasons for not doing so shall be provided to the Committee, the Representative or member of a Representative Body who is alleged to have breached the Code and the Representative or member of a Representative Body who alleged a breach of the Code.
  13. If a formal inquiry of an allegation of a breach of the Code is undertaken, it shall be done by the President.
  14. The *Statutory Powers Procedure Act* does not apply to anything done regarding the enforcement of the Code. No formal trial-type hearing will be conducted.
  15. Procedural fairness shall govern the formal inquiry. The formal inquiry will be conducted in private. The formal inquiry may involve both written and oral statements by any witnesses, the Representative or member of a Representative Body bringing the complaint and the Representative or member of a Representative Body who is alleged to have breached the Code.
  16. The Representative or member of a Representative Body who is alleged to have breached the Code shall have an opportunity to respond to the allegations both in a private meeting with the person(s) undertaking the formal inquiry and in writing.
  17. It is expected that the formal inquiry will be conducted within a reasonable period of time which will depend on the circumstances of the case. If the Representative or member of a Representative Body who is alleged to have breached the Code refuses to participate in the formal inquiry, the formal inquiry will continue in their absence.
  18. The President shall prepare a confidential final report which will outline the finding of facts, but not contain a recommendation or opinion as to whether the Code has been breached. This will be determined by the Committee.

19. The confidential final report shall be delivered to the Committee and the Representative or member of a Representative Body who is alleged to have breached the Code. The Committee shall consider the finding of facts and decide as to whether or not the Code has been breached and identify any sanctions, if any. The Committee shall meet as soon as practical after receipt of the final report, to make a decision.
20. If the Committee determines that there has been no breach of the Code or that a contravention occurred, although the Representative or member of a Representative Body 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, no sanction shall be imposed.
21. If the Committee determines that the Representative or member of a Representative Body has breached the Code, the Committee may impose one or more of the following sanctions:
  - (a) a warning, an apology, and/or the requirement of the Representative or member of a Representative Body to engage in the successful completion of professional learning
  - (b) a recommendation to the Chair of the member board\* that the Representative or member of a Representative Body found to have breached the Code be replaced on the OPSBA Board of Directors, where applicable

*\* If the Representative or member of a Representative Body is from the Indigenous Trustees' Council or other OPSBA Council, Caucus, or Work Group, the President will ask the Indigenous Trustees Council or other OPSBA Council, Caucus, or Work Group to select a new representative.*
22. The Committee shall not impose a sanction which is more onerous than the above but may impose one that is less onerous.
23. If the Committee determines that a Representative or member of a Representative Body has breached the Code, the Committee shall,
  - (a) give the Representative or member of a Representative Body written notice of the determination, the reasons for the decision and any sanction imposed by the Committee;
  - (b) the notice shall inform the Representative or member of a Representative Body that they may make written submissions to the Committee in respect of the determination or sanction by the date specified in the notice;
  - (c) consider any submissions made by the Representative or member of a Representative Body and shall confirm or revoke the determination or sanction within a reasonable period of time after the submissions are received.

24. If the Committee revokes a determination, any sanction imposed by the Committee is revoked. If the Committee confirms a determination, the Committee shall, within the same reasonable period of time as above, confirm, vary or revoke the sanction. If a sanction is varied or revoked, the variation or revocation shall be deemed to be effective as of the date the original determination was made. If appropriate, the original sanction may be stayed pending the reconsideration by the Committee of the determination or sanction.

### **History**

Adopted: June 9, 2016

Revised: September 28, 2024