



**Submission to the Ministry of Education
regarding integrity commissioners and
meeting procedures for school board trustees**

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Overview

The Ministry of Education has requested comments on three regulatory proposals related to school board governance and accountability. The first proposed regulation relates to integrity commissioner qualifications and code of conduct complaint processes, among other matters. The second proposal involves the maximum amount by which a trustee's honorarium may be reduced as a sanction for breaching a school board's code of conduct. The third matter the Ministry is seeking comments on is proposed amendments to Ontario Regulation 463/97, *Electronic Meetings and Meeting Attendance*, made under the *Education Act*,¹ to address the impact of physical attendance requirements for trustees on geographically large northern and rural boards.

I commend the government's efforts to enhance local governance and accountability by strengthening the trustee code of conduct framework and modernizing in-person meeting attendance requirements for trustees. Based on my Office's significant experience in issues relating to codes of conduct, integrity commissioners, and the openness of school board meetings, I have prepared this submission to share our expertise and further assist the Ministry in its efforts to enhance the transparency and accountability of school board governance.

Ombudsman role and jurisdiction

The Ombudsman is an independent, non-partisan Officer of the Ontario Legislature, appointed by all parties under the *Ombudsman Act*,² whose role is to ensure that the provincial government and public sector serve people in a way that is fair, accountable, transparent, and respectful of their rights.

We intervene to resolve or investigate issues involving government and public sector administration and make evidence-based recommendations for corrective action when necessary. We do so based on complaints or on our own initiative and are recognized internationally for the calibre and impact of our work.

The Ombudsman is a democratic institution, not a government department, and an essential element in states based on democracy, the rule of law, good administration, and respect for rights.

The Office of the Ontario Ombudsman was established in 1975 and takes complaints about the administrative decisions and actions of more than 1,000 public sector and government bodies in Ontario, as well as French language services and services provided in the child protection sector.

¹ *Education Act*, RSO 1990, c E.2 [*Education Act*].

² *Ombudsman Act*, RSO 1990, c O.6.

Since gaining jurisdiction over school boards on September 1, 2015, my Office has received nearly 7,000 cases (complaints and inquiries) about school boards, including 326 regarding boards of trustees. Most of these cases related specifically to the conduct of individual trustees and to how school boards investigated and imposed sanctions regarding alleged breaches of codes of conduct.

My Office also has extensive experience and expertise in investigating closed meetings at the municipal and school board levels. My Office is the closed meeting investigator for more than half of Ontario's 444 municipalities. Since 2008, my Office has investigated hundreds of closed meetings of councils, committees and local boards under the *Municipal Act, 2001*,³ and shared best practices and formal recommendations with numerous municipalities. My Office has also developed a database (**Open Meetings: Case Digest**⁴) and a guide (**Open Meetings: Guide for Municipalities**⁵), which provide summaries of investigations and interpretations of the open meeting rules, as well as best practices for municipalities. Informed by our expertise with municipal meetings, my Office also has investigated several complaints regarding closed meetings of school board trustees, which can be found in the Education section of our website.⁶

My Office has also developed best practice resources based on our review of complaints about codes of conduct and integrity commissioners for municipalities. To assist municipalities, integrity commissioners, and the public, we have published two comprehensive resources: **Municipal Integrity Commissioners: Best Practice Guide**,⁷ and **Codes of Conduct, Complaint & Inquiry Protocols, and Appointing Integrity Commissioners: Guide for Municipalities**.⁸ Both guides are available on my Office's website.⁹

³ *Municipal Act, 2001*, SO 2001, c 25 [*Municipal Act, 2001*].

⁴ "Open Meetings: Case Digest", online: *Ontario Ombudsman* <<https://www.ombudsman.on.ca/digest/digest-home>>.

⁵ Ombudsman of Ontario, *Open Meetings: Guide for Municipalities* (2023), online: *Ontario Ombudsman* <<https://www.ombudsman.on.ca/have-a-complaint/who-we-oversee/municipalities/municipal-closed-meetings/open-meetings-guide-for-municipalities>>.

⁶ "Investigations and Reviews – School Board Meetings", online: *Ombudsman Ontario* <<https://www.ombudsman.on.ca/what-we-do/topics/education/investigations-and-reviews-school-board-meetings>>.

⁷ Ombudsman of Ontario, *Municipal Integrity Commissioners: Best Practice Guide* (2023), online: <<https://www.ombudsman.on.ca/resources/brochures,-posters-and-resources/municipal-resources/municipal-integrity-commissioners-best-practice-guide>>.

⁸ Ombudsman of Ontario, *Codes of Conduct, Complaint & Inquiry Protocols, and Appointing Integrity Commissioners: Guide for Municipalities* (2023) [*Codes of Conduct: Guide for Municipalities*], online: <<https://www.ombudsman.on.ca/resources/brochures,-posters-and-resources/municipal-resources/codes-of-conduct,-complaint-inquiry-protocols,-and-appointing-integrity-commissioners>>.

⁹ "Municipal Resources", online: *Ombudsman Ontario* <<https://www.ombudsman.on.ca/resources/brochures,-posters-and-resources/municipal-resources#Resources%20About%20Municipal%20Integrity%20Commissioners>>.

My Office has long advocated for improved accountability and transparency for school board trustees. I have previously made submissions to the Ministry of Education in 2017 and 2021,¹⁰ as well as the Standing Committee on Social Policy in 2023.¹¹ In these submissions, I proposed important enhancements to the trustee accountability framework then in place, including:

- Mandatory codes of conduct with standardized prescribed topics;
- Allowing for code of conduct complaints to be made by members of the public as well as board trustees;
- Improved procedures for the handling and investigation of code of conduct complaints;
- Expanding the school board integrity commissioner's role to cover conflicts of interest under the *Municipal Conflict of Interest Act*; and
- Improved practices for holding closed meetings.

Some of these proposals have already been incorporated into legislative and regulatory changes. For instance, after I made my 2017 submission, the province implemented one of my most important proposals by adopting Ontario Regulation 246/18, *Members of School Boards – Code of Conduct*, which requires that every school board have a code of conduct.

I am pleased to see that the government is further implementing proposals I have made, including in my May 2023 submission to the Standing Committee on Social Policy during its review of Bill 98, which became the *Better Schools and Student Outcomes Act*. Going forward, the *Education Act* will not only enshrine in legislation the requirement for school boards to have a code of conduct, but it will also provide a standardized set of sanctions for code of conduct breaches. In addition to the enhanced procedures for the handling and investigation of code of conduct complaints in the Act, it is encouraging to see the Ministry propose further procedural enhancements along with a robust framework for ensuring the qualifications for integrity commissioners.

I applaud the steps the Ministry has taken to improve school board governance and bring the enhanced accountability requirements for trustees in the *Education Act* into effect. I

¹⁰ Ombudsman of Ontario, *Submission to the Ministry of Education's consultation regarding school board governance* (October 2021), online: <<https://www.ombudsman.on.ca/resources/reports,-cases-and-submissions/submissions-to-government/2021/submission-to-the-ministry-of-education%E2%80%99s-consultation-regarding-school-board-governance>>.

¹¹ Ombudsman of Ontario, *Submission to the Standing Committee on Social Policy regarding Bill 98, Better Schools and Student Outcomes Act, 2023* (May 2023), online: <<https://www.ombudsman.on.ca/resources/reports,-cases-and-submissions/submissions-to-government/2023/submission-to-the-standing-committee-on-social-policy-regarding-bill-98,-better-schools-and-student>>.

am also pleased to see some of my previous proposals reflected in the Ministry's consultation documents.

In this submission, I will highlight further steps the Ministry can take to further its objectives of enhancing the transparency and fairness of the processes related to school board trustee codes of conduct and integrity commissioner investigations.

Integrity commissioner appointments

Section 218.3(4) of the *Education Act* will enable the Minister to create a roster of integrity commissioners for school boards, and the Ministry has indicated that it intends to create such a roster. Integrity commissioners must be on this roster in order to be appointed.¹² However, the upcoming amendments to section 218.3 the *Education Act* do not contain a specific provision regarding how and when school boards must appoint integrity commissioners. I encourage the Ministry to clarify the process for appointing integrity commissioners from the roster, including the circumstances in which a school board must appoint an integrity commissioner, the process for doing so, and the duration of the appointment.

Proposal 1

Section 218.3 of the *Education Act* should be amended to clarify the process for appointing an integrity commissioner from the roster, including the circumstances in which a school board must appoint an integrity commissioner, the process for doing so, and the duration of the appointment.

In its proposal, the Ministry has asked for feedback about the minimum qualifications for integrity commissioners. My Office has consistently advocated for such requirements, and I am encouraged to see the Ministry intends to put them in place. The proposed minimum requirements set out by the Ministry include:

- Minimum of 3 years' experience in investigation or adjudication, and the application of administrative law principles including the duties of fairness and natural justice;
- Relevant experience related to professional ethics and one or more of workplace investigations, education law, governance, human rights; and
- Knowledge of Ontario's publicly funded education sector, as well as the *Education Act* and applicable regulations and policies.

¹² *Education Act*, s 218.3(5).

These requirements will ensure that all school board integrity commissioners have basic competencies necessary to ensure they conduct thorough and fair investigations.

Beyond these core competencies, it is important that the public and the trustees subject to investigation have trust in the impartiality of the chosen investigator. In addition to meeting the minimum qualifications, integrity commissioners should also be required to declare, as a condition of their appointment, that they have no potential conflicts of interest, including financial interests, which might interfere with their ability to carry out their role independently.

The Ministry should require that integrity commissioners for school boards have independence from any school board to which they are appointed. Existing or recent professional relationships between an integrity commissioner and the board may be perceived as too closely connected with the interests of trustees. In establishing the roster for integrity commissioners, the Ministry should ensure that an individual who is currently or has recently been employed by a school board, or who is providing or has recently provided non-integrity commissioner services (e.g., legal, investigative, or other professional services), is not eligible to be appointed as an integrity commissioner for that school board.

Proposal 2

The Ministry of Education should ensure that an individual who is currently or has recently been employed by a school board, or who is providing or has recently provided non-integrity commissioner services (e.g., legal, investigative, or other professional services), is not eligible to be appointed as an integrity commissioner to that school board.

In addition, I encourage the Minister to give school boards the authority to appoint integrity commissioners to conduct inquiries into allegations of contraventions of the *Municipal Conflict of Interest Act*. While school board trustees are required to comply with the *Municipal Conflict of Interest Act*,¹³ school board integrity commissioners are not set to have the ability to review concerns under that Act like their municipal counterparts do. Currently, in order to review a trustee's compliance with that Act, an elector would have to bring an application to a judge.¹⁴

By contrast, the *Municipal Act, 2001* empowers municipal integrity commissioners to conduct inquiries into alleged violations of the *Municipal Conflict of Interest Act* under certain circumstances.¹⁵ This process provides an accessible alternative to court

¹³ *Municipal Conflict of Interest Act*, RSO 1990, c M.50.

¹⁴ *Ibid*, s 8(1).

¹⁵ *Municipal Act, 2001*, s 223.4.1.

proceedings for determining whether or not a municipal councillor has complied with the legislated conflict of interest rules. Establishing a similar process for school board integrity commissioners would encourage greater compliance with the *Municipal Conflict of Interest Act* and would lead to more accountability and transparency in school board governance.

Proposal 3

The Ministry should consider amending the *Education Act* to allow school boards to appoint integrity commissioners to investigate alleged contraventions of the *Municipal Conflict of Interest Act* by school board trustees. This amendment could be drafted in wording similar to that found in section 223.3(1)(3) of the *Municipal Act, 2001*.

Codes of conduct

The Ministry is also seeking input on various proposed requirements for codes of conduct and related investigation processes.

I support the process requirements set out in the Ministry's proposal, and I further encourage the Ministry to prescribe when and how trustees who are the subjects of code of conduct complaints will be able to participate in the investigative process. Specifically, a trustee subject to a code of conduct complaint should be offered an opportunity to review and comment on a preliminary version of a report that makes adverse findings. Further, if an investigation takes longer than the 90-day initial timeframe established by subsection 218.3(15) of the *Education Act*, the code of conduct should require the integrity commissioner to report back to the board and the trustee subject to the complaint with an updated completion timeline for the investigation.

Under the recent legislative amendments to the *Education Act*, integrity commissioners will be required to provide both the member whose conduct was the subject of a complaint and the board with written notice of their determination. This report will be required to include the reasons for the integrity commissioner's determination, the reasons for any sanctions, and information about the right to appeal the decision.¹⁶ Like municipalities, school boards should be required to make integrity commissioner reports available to the public.¹⁷ As I have noted in the municipal context, in cases where an integrity commissioner finds that a member contravened the code of conduct, the integrity commissioner's report should be considered in an open meeting, unless the discussion squarely fits within one of the *Education Act*'s exceptions to the open meeting rules. This should be required as part of the complaint investigation process.¹⁸

¹⁶ *Education Act*, ss 218.3.1(5)–(6).

¹⁷ *Municipal Act, 2001*, s 223.6(3).

¹⁸ *Codes of Conduct: Guide for Municipalities*, supra note 8.

Proposal 4

The Ministry of Education should set out when and how trustees who are the subjects of code of conduct complaints will be able to participate in the investigative process. A trustee subject to a code of conduct complaint should be offered an opportunity to review and comment on a preliminary version of a report that makes adverse findings.

Proposal 5

The Ministry of Education should require integrity commissioners, when their investigations exceed the 90-day timeline at section 218.3(15) of the *Education Act*, to provide an updated completion timeline to the board and the trustee subject to the code of conduct complaint.

Proposal 6

The Ministry of Education should require that in cases where an integrity commissioner finds that a member contravened the code of conduct, the integrity commissioner's final report must be made public. In addition, the school board's board of trustees should be required to discuss the report in open session, unless the discussion squarely fits within one of the exceptions to the open meeting rules at subsection 207(2) of the *Education Act*.

With the addition of section 218.2(2) to the *Education Act*, the Minister will have the authority to prescribe the matters that must be addressed in a school board's code of conduct. In determining the types of matters to be addressed by codes of conduct, the Minister may wish to look to Ontario Regulation 55/18, *Codes of Conduct – Prescribed Subject Matters*, under the *Municipal Act, 2001*. That regulation requires that municipalities address four subjects in their codes of conduct: (1) gifts, benefits and hospitality; (2) respectful conduct, including conduct towards officers and employees of the municipality or local board, as the case may be; (3) confidential information; and (4) use of property of the municipality or the local board, as the case may be.¹⁹ These same topics are relevant in the school board context, and I encourage the Minister to require, at a minimum, that school boards address these topics in their codes of conduct.

Beyond the requirements set out in the *Municipal Act, 2001*, my Office's guide, ***Codes of Conduct, Complaint & Inquiry Protocols, and Appointing Integrity Commissioners: Guide for Municipalities***, contains additional topics that my Office has suggested municipalities consider for inclusion in their codes of conduct.²⁰ Topics that may be

¹⁹ Ontario Regulation 55/18, s 1.

²⁰ *Codes of Conduct: Guide for Municipalities*, supra note 8.

relevant in the school board context include trustees' conduct during meetings, towards members of the public or on social media, and trustees' communication on behalf of the board, including to news media.

Further, school boards should proactively include anti-reprisal provisions in their codes of conduct to ensure those who make complaints in good faith about the conduct of trustees are able to do so freely. Fear of reprisal for making complaints or for co-operating in a code of conduct enforcement process can undermine the effectiveness of the complaints process and negatively impact trust in the governance of the public education system.

Proposal 7

The Ministry of Education should require school boards to address prescribed topics within their codes of conduct. These topics could include: gifts, benefits and hospitality, respectful conduct (including conduct towards officers and employees of the school board, members of the public, on social media, and during meetings), confidential information, use of property of the school board, and trustees' communication on behalf of the board (including to the media).

Proposal 8

The Ministry of Education should require that school boards' codes of conduct include anti-reprisal protections for complainants and for anyone co-operating with an integrity commissioner during their inquiry.

I also encourage the Ministry to consider providing members of the public with the ability to bring code of conduct complaints. Under the recent legislative amendments to the *Education Act*, trustees are still the only individuals who can bring complaints under their school board's code of conduct. By contrast, the *Municipal Act, 2001* enables members of the public to make code of conduct complaints about municipally elected officials and hold local municipal officials accountable.²¹ It is difficult to see why locally elected school board trustees should be treated differently. Allowing members of the public to make code of conduct complaints would promote public confidence in school board trustees.

Any concerns about such a system potentially exposing trustees to frivolous or vexatious complaints from members of the public can be addressed under the new subsection 218.3(8) of the *Education Act*, which gives integrity commissioners the discretion not to proceed with an investigation of a complaint if the integrity commissioner determines it is made in bad faith, or is frivolous or vexatious.

²¹ *Municipal Act, 2001*, s 223.4(1).

Proposal 9

The *Education Act* should be amended to enable members of the public to make code of conduct complaints about trustees, similar to the provisions in section 223.4(1) of the *Municipal Act, 2001*.

Modernizing meeting attendance

The Ministry is seeking comments on proposed amendments to Ontario Regulation 463/97, *Electronic Meetings and Meeting Attendance* (the “Regulation”), made under the *Education Act*, to address the impact of physical attendance requirements for trustees on geographically large northern and rural boards. The proposed changes would allow trustees in some circumstances to attend meetings electronically in accordance with specific requirements.

As the Ministry modernizes meeting attendance and participation in light of new technologies and practices, it should also consider updating the Regulation’s requirement that the public be able to physically attend meetings of the board or a committee of the board.²² The Ministry notes in its consultation document that the Regulation’s in-person attendance requirements were temporarily suspended in response to the COVID-19 pandemic to promote public health and safety. However, the Regulation does not allow school boards to provide alternative methods of enabling the public to observe board or committee meetings in other circumstances, such as where the safety or security of individuals may be at risk if the meeting is held entirely in person.

Recently, the Ontario Human Rights Commission²³ and the Council of Ontario Directors of Education²⁴ have noted that school boards face increasing violence and harassment directed towards education officials at board meetings. My Office has received complaints about school boards that have amended their meeting procedures due to concerns for the health, safety, and well-being of school board staff, trustees, and members of the public.²⁵

²² Ontario Regulation 463/97, s 6(1).

²³ Ontario Human Rights Commission, *OHRC statement on Code obligations of education officials*, (16 February 2023), online: <https://www.ohrc.on.ca/en/news_centre/ohrc-statement-code-obligations-education-officials>.

²⁴ Council of Ontario Directors of Education, *Upholding Human Rights and Restoring Civility in Public Discourse* (6 June 2023), online: <http://www.ontariodirectors.ca/downloads/CODE_OP_ED_FINAL-Rev-June_6_2023.pdf>.

²⁵ Letter from the Ontario Ombudsman to the Niagara Catholic District School Board (13 March 2024), online: <<https://www.ombudsman.on.ca/what-we-do/topics/education/investigations-and-reviews-school-board-meetings/niagara-catholic-district-school-board-review-of-meetings-on-june-7-20,-2023>>; Letter from the Ontario Ombudsman to the Durham District School Board (29 November 2023) [Letter to the Durham District School Board], online: <<https://www.ombudsman.on.ca/what-we-do/topics/education/investigations-and-reviews-school-board-meetings/durham-district-school-board-review-of-a-meeting-on-june-5,-2023>>.

For example, we received a complaint about meetings held by the Durham District School Board's board of trustees that were streamed online but not open to in-person attendance by the public. The school board told us that increasingly concerning behaviours, including swearing, derogatory comments and death threats, had been directed towards staff and trustees. Because of these behaviours, the board and two of its committees held several meetings with no option for the public to observe them in person, although they could watch them live online. After a review of its safety protocols and the implementation of additional security measures, the board resumed in-person attendance at its meetings pursuant to the Regulation's in-person meeting requirements.²⁶

To promote the safety of people attending school board meetings, including trustees and Board staff, the Ministry may wish to consider creating an exception to the Regulation's in-person requirements where safety or security is at risk, and create a clear framework for these exceptional circumstances.

Under subsection 2(1) of Ontario Regulation 463/97, school boards are required to have a policy providing for the use of electronic means for board and committee meetings. Pursuant to subsection 4(2) of the Regulation, this policy is required to provide that the board will provide members of the public with electronic means for participating in meetings, and shall provide for the extent and manner of electronic participation.

A school board should also be required to state in this policy how it will provide the public with information on how to access an electronic meeting, such as by providing the meeting link on its website. In addition, the Regulation should require school boards' policies to include procedures related to monitoring for and addressing technical issues with electronic meetings.

Proposal 10

Section 6 of Ontario Regulation 463/97 should be amended to create an exception to the requirement for physical attendance of the public in circumstances where the safety or security of school board staff members, trustees, or members of the public is at risk. In addition, the Ministry of Education should establish a clear framework for these exceptional circumstances.

Proposal 11

Ontario Regulation 463/97 should be amended to require that school boards' electronic meeting policies under subsection 2(1) provide information about how members of the public can access an electronic meeting.

²⁶ Letter to the Durham District School Board, *supra* note 25.

Proposal 12

Subsection 4(1) of Ontario Regulation 463/97 should be amended to require school boards' policies under subsection 2(1) to include procedures related to monitoring for and addressing technical issues with electronic meetings.

Modernizing the *Education Act's* open meeting rules

As the Ministry is considering modernizing provisions related to school boards' obligations to hold meetings that are open to the public and improve school board transparency, I encourage the Ministry to review and update the *Education Act's* open meeting rules. Under the Act, all meetings of a board of trustees and a committee of the board must be open to the public, subject to prescribed exceptions.²⁷ A committee meeting may be closed when the subject matter under consideration involves:

- a) The security of the property of the board;
- b) The disclosure of intimate, personal or financial information in respect of a member of the board or committee, an employee or prospective employee of the board or a pupil or his or her parent or guardian;
- c) The acquisition or disposal of a school site;
- d) Decisions in respect of negotiations with employees of the board; or
- e) Litigation affecting the board.²⁸
- f) A meeting of a board of trustees or committee must also be closed when discussing an ongoing investigation under the *Ombudsman Act*.²⁹

By contrast, the *Municipal Act, 2001* contains 14 situations in which a municipal meeting may be closed to the public, and many of these may be relevant to school board meetings.³⁰ For example, the *Municipal Act, 2001* allows municipal councils to discuss advice that is subject to solicitor-client privilege in closed session.³¹ However, the *Education Act* does not contain such an exception. This can create practical difficulties for school boards that want to comply with the *Education Act's* open meeting requirements while also maintaining the confidentiality of the legal advice that they receive. In light of these tensions, my Office has received complaints relating to circumstances where boards have met *in camera* to seek or receive legal advice.³²

²⁷ *Education Act*, s 207.

²⁸ *Ibid*, s 207(2).

²⁹ *Ibid*, s 207(2.1).

³⁰ *Municipal Act, 2001*, ss 239(2)–(3.1).

³¹ *Ibid*, s 239(2)(f).

³² See e.g. Letter from the Ontario Ombudsman to the Grand Erie District School Board (11 October 2022), online: <<https://www.ombudsman.on.ca/what-we-do/topics/education/investigations-and-reviews-school-board-meetings/grand-erie-district-school-board-review-of-a-meeting-on-may-30,-2022>>.

In light of these difficulties, I strongly encourage the Ministry to consider expanding the *Education Act*'s open meeting exceptions to include an exception for solicitor-client privilege. The Ministry may also wish to consider adopting other open meeting exceptions from the municipal context into the *Education Act* as part of a modernization of the open meeting rules.

Proposal 13

The *Education Act* should be amended to expand the circumstances under which a meeting of school board trustees may be closed to the public. Specifically, the Ministry of Education may wish to look to the exceptions outlined at sections 239(2)-(3.1) of the *Municipal Act, 2001* and assess which would be relevant to boards of trustees.

Further to my proposal to provide public notice of how to access electronic meetings, school boards should also be required to provide public notice of meetings. Under the *Municipal Act, 2001*, municipalities are required to have procedure by-laws that provide for public notice of all meetings.³³ In the municipal sector, I have recommended that public notice should include the date, time, and place of a meeting, as well as the meeting's agenda. In contrast, the *Education Act* only requires that notice be given to trustees.³⁴ As such, school boards may conduct business, whether in public or in private, without any notice to the public.

Members of the public cannot exercise their right to observe public school board meetings if they do not have notice of them. I encourage the Ministry to adopt requirements for school boards that are similar to those for municipalities, to promote the transparency and accountability of school board meetings.

Proposal 14

The *Education Act* should be amended to require school boards to provide public notice of all meetings of boards of trustees and board committees. This public notice should include the date, time and location of the meeting and the meeting agenda.

Municipal councils, local boards, and committees of either are also required to pass resolutions when going into closed session that state the fact of the closed meeting and provide a general description of the matter to be discussed *in camera*.³⁵ This requirement

³³ *Municipal Act, 2001*, s 238(2.1).

³⁴ *Education Act*, s 198(1)(c).

³⁵ *Municipal Act, 2001*, s 239(4).

provides the public with meaningful information about the issues to be discussed in camera and helps inspire confidence that the meeting is being properly closed. By contrast, the *Education Act* does not require that a board of trustees or committee pass a resolution in open session to authorize a closed session, nor does it require the board to provide information about the matters to be discussed in closed session. As I noted in my recent investigation report to the Near North District School Board,³⁶ publicly acknowledging the general subject matter discussed in closed session enhances the transparency of local democracy and ensures that decision-makers are accountable when they discuss matters behind closed doors.

Proposal 15

The *Education Act* should be amended to require boards of trustees and committees of boards to state by resolution the fact of the holding of a closed meeting and the general subject matter to be considered at the closed meeting.

Conclusion

I commend the Ministry's attention and commitment to enhancing school board governance and accountability by strengthening the trustee code of conduct framework. I am also pleased to see that the Ministry is taking steps to modernize the in-person meeting attendance requirements for trustees to promote fairness while maintaining transparency. I have made 15 proposals in this submission, based on my Office's expertise in this area, to enhance these improvements.

My staff would be pleased to provide more information and answer questions regarding these proposals.



Paul Dubé
Ombudsman of Ontario

Ce rapport est aussi disponible en français

³⁶ Ontario Ombudsman, *Investigation into a complaint about meetings held by the Near North District School Board's Parry Sound Building Committee on December 14, 2022, January 12, 2023, and February 6, 2023* (March 13, 2024) at para 85, online: <<https://www.ombudsman.on.ca/what-we-do/topics/education/investigations-and-reviews-school-board-meetings/investigation-into-a-complaint-about-meetings-held-by-the-parry-sound-building-committee>>.