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**RE: TORONTO DISTRICT SCHOOL BOARD
CODE OF CONDUCT COMPLAINT INVESTIGATION #0317**

I. Summary

This report presents the findings of my investigation under the Board Member Code of Conduct (the “Code”) relating to the conduct of Trustee Sheila Cary-Meagher (the “Respondent”) in connection with a complaint. The Complainants are the public face of the Communications team at TDSB. Their complaint raises the following issues:

1. the allegation that the Respondent maliciously or falsely injured the professional or ethical reputation of the Complainants contrary to former Rule 4.9 of the Code (now Rule 6.9 of the updated Code);
2. the allegation that the Respondent did not show respect for the professional capacity of the Complainants and in so doing, contravened former Rule 4.9 of the Code (now Rule 6.9 of the updated Code); and
3. the allegation that the Respondent’s behavior was disrespectful and intimidating, in contravention of former Rule 4.10 of the Code (now Rule 6.10 of the updated Code).

I find that Issues #1 and #2 involve allegations in respect of the Respondent’s actions which constitute falsely injuring the professional reputation and disrespect for the professional capacity of the Complainants contrary to her obligations under the Code.

Issue #3, triggered the provisions of Rule 6.10 of the Code, which requires Trustees to treat staff members respectfully and without abuse, bullying or intimidation and to ensure that their work environment is free from discrimination and harassment. Harassing or discriminatory behaviour, as indicated in the TDSB Workplace Harassment Prevention Policy (“Harassment Prevention Policy”) and Human Rights Policy, which occurs in the course of the performance of the duties of the Trustee, is subject to the provisions of the Code. After an initial assessment and after consultation with the TDSB Human Rights Office, I found that the matter could be processed through the Code Protocol process without referral to a third party Human Rights investigator.

The Code refers to objectionable behavior as indicated by the TDSB Workplace Violence and Harassment Prevention policies and the Ontario *Human Rights Code*.¹

The Respondent organized and secured a parent meeting with respect to a hold and secure incident at a Ward 16 school. This event was held with Toronto Police Services (“TPS”) in

¹ TDSB Workplace Violence and Harassment Prevent Policy, *harassment* is a course of vexatious comment or conduct known or ought reasonably to be known to be unwelcome.

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attendance, but the Respondent did not invite the TDSB Communications staff or the Complainants who were present when the incident took place. In stating that Communications staff “failed miserably” and “dropped the ball” to parents, in the absence of the very staff who were onsite during the event and who could have provided answers to the parents’ questions, the Respondent created an intimidating work environment and maligned the long-standing and impeccable careers of the Complainants.

In this report, I discuss my investigative process, my findings on the allegations in the complaint, my reasons for those findings, and my recommendations with respect to the appropriate sanction.

II. The Allegations in the Complaint

On November 2, 2017, I received a Complaint in respect of utterances made by the Respondent at a parents’ meeting on October 19, 2017. After conducting a preliminary review and classification of the matters, I determined that the Complaint triggered Rules 6.9 and 6.10 of the Code.

The Complainants wrote that they had reasonable grounds to believe that the Respondent had contravened the above-noted rules of the Code. In their 3-page Complaint Form and 9 pages of supporting documentation, the Complainants provided detailed particulars of these allegations.

The full particulars of the allegations were provided to the Respondent. In this report, however, given the sensitivity of the matters underlying the Complaint, in respect of a *hold and secure* measure at a school, I have decided to exercise my discretion to disclose only those particulars that I have determined are necessary for the purposes of the report. In doing so, I have balanced the need for the Board of Trustees (the “Board”) and the public to understand the factual basis for my findings and my recommendations against security and safety considerations. I note that the Complainants have confirmed that they understand and accept that the events alleged in the Complaint may identify them and that the matter would be made public in my report to the Board.

A. Issues #1 and #2 – Allegations of Conduct Disrespecting Staff Members

The Complainants raised the allegation that on October 19, 2017, the Respondent held an evening parents’ meeting at a TDSB school in her Ward², for the purposes of discussing the circumstances around a two-day hold and secure that took place at the school in September 2017. The Complaint alleged that at the meeting, the Respondent falsely injured the Complainants’ professional reputations by making the statement “the Communications team failed miserably” and that “Communications ‘screwed up’ and ‘let us down’”.

² Ward 16 Beaches/East York

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These utterances were made at a public meeting with approximately 100 members of the public in attendance. In making the utterances, the Respondent inaccurately and unfairly maligned the professional reputation of the Complainants and failed to demonstrate respect for their professional handling of a sensitive school and public safety issue.

In the course of my investigation, several TDSB staff who rely on the Complainants for Communications and Media Relations support and advice have made the following comments about the work of and communications assistance provided by the Complainants:

“Messaging and prep is the best”

“My principals have commented how great he is”

“You are the best”

“I want to let you know that I am so grateful that you are my communications liaison. You are always efficient, smart and ‘there’ when we need you. I never take excellence for granted”

“I would like to thank you for your kind and wise advice. I feel safe speaking with you”

“You are pretty special – you know that [Complainant 1] ”

“[Complainant 2] is an exemplary communicator. Recently I had a very difficult letter to write and he drafted what was a masterpiece in support and caution”

“Thanks [Complainant 1]...all the credit to [Complainant 2]. He’s worth his weight in platinum.”

By calling a parent meeting without inviting or consulting with the Complainants, who are the TDSB subject matter experts in Communications and Media Relations, the Complainants allege that the Respondent: (i) failed to respect the distinct roles of TDSB Communications staff and (ii) in making pejorative statements, falsely injured their professional reputations in contravention of Rule 6.9 (a) of the Code.

B. Issue #2 – Allegations of Discreditable Conduct

The Complaint also alleged that the Respondent’s actions and statements did not demonstrate respectful treatment and contributed to the creation of an intimidating work environment.

The Complaint alleges that, as a direct result of the statements made by the Respondent, the Complainants were unfairly singled out:

From the outset, [Toronto Police Services (“TPS”)] officers in charge of the situation directed school and TDSB staff to limit details about the [matter...]. Unfortunately, some parents claimed to have learned some of the details [...] that suggested that the school should be sharing more details with parents...

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Privately, [the Respondent] was displeased that individual officers may have shared details and put school staff in a difficult position. However, she did not publicly state that the police “screwed up” or “failed miserable” or “let us down”. To do so would have been inappropriate

The Complaint also sets out that in over 9 years of handling similar school crisis or threats to school safety, the Complainants have always been available by telephone on an on-call basis to answer any questions from Trustees, TDSB staff, parents and the general public. The Complainants note that at no time did the Respondent call them even though their roles are specifically in place to be a communication and media relations resource to Trustees, TDSB administrative, school staff and the public. While the Respondent did have a conversation with the head of Communications after the hold and secure was lifted, the Complainants were never given an opportunity by the Respondent to respond to her assertions that Communications was not providing what she believed to be accurate and detailed available information to the public. Instead the Respondent is alleged to have spoken at an evening public parents’ meeting about the unfolding of events in respect of the 2-day hold and secure at the school, without confirming the veracity of her comments with the Complainants or other Communications staff and without providing them with an opportunity to respond to her accusations.

III. Relevant provisions of the Code

C. Falsely injuring the professional reputation of staff allegations under Rule 6.9(a)

Rule 6.9 (a) of the Code requires Trustees to avoid any actions that would maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff members of the TDSB, and all members of the Board shall show respect for the professional capacities of staff members.

The TDSB Governance Policy states that Trustees and Staff shall work together in the public interest in a manner that respects their respective roles at the TDSB.³ The underlying principle of the policy is that, as stated in the *Education Act*, a strong public education system is the foundation of a prosperous, caring and civil society. For the TDSB, an effective Board ensures that all persons be treated fairly in the workplace in an environment free of discrimination.

The Code does not define harassment. However, pursuant to 3.0 of the Code, *Harassment* means harassing behavior as indicated by the TDSB Discrimination and Harassment Prevention policy and the Ontario Human Rights Code. The definition of harassment is contained in the TDSB Respectful Workplace Policy.

³ Policy PO86, Governance Policy, February 10, 2017, section 4.3

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Discrimination and harassment are prohibited under the Ontario *Human Rights Code* and the *Occupational Health and Safety Act* (“OHSA”), as well as TDSB policies including the Workplace Harassment Prevention Policy (P034) and the Human Rights Policy (P031).

In April 2017, the Board approved an updated Harassment Prevention Policy after a comprehensive review by the TDSB Human Rights Office. The Policy aims to promote a climate of understanding and mutual respect where all are equal in dignity and rights and to provide a means of redress for individuals who are discriminated against or harassed contrary to the policy. The Board also adopted an updated Workplace Harassment Prevention and Human Rights Procedure in October 2017 (the “Harassment Prevention Procedure”) which sets out the protocol for considering, among other things, allegations of discrimination and workplace harassment.

Workplace Harassment under TDSB Policy is engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, or is workplace sexual harassment.

By requiring Board Members to comply with the Workplace policies, I conclude that Rule 6.10 of the Code incorporates by reference, the obligations found in that policy. The policy expressly applies to all Trustees, and extends to any harassment that may occur at any worksite location where the business of the TDSB is being conducted, including schools and community meetings.

I note that the Board has recently updated the Code⁴ so that in consultation with the Human Rights Office, the Integrity Commissioner will have carriage of any complaints against Trustee in relation to the Workplace Discrimination and Harassment Prevention and Human Rights policies and will determine whether there is a need to refer the complaint investigation to an independent Human Rights investigator-subject matter expert.

The events leading to the Complaint.

IV. Events leading to the Complaint

D. The Threat at the School

On September 28th, 2017, in response to an incident at a Ward 16 school, the Complainants, in their capacities as Communications professionals, assessed the situation and followed TDSB policy in an effort to ensure effective communication to keep students, staff and others safe.

A *Hold and Secure* is a response to a threat in the general vicinity of a school, but not on or near school property. This could be a police pursuit, a crime in progress or an active search by police for a known dangerous offender. Staff, students and visitors are considered to be safe inside the

⁴ Policy P075, October 25, 2017

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school, and once inside, they do not leave the building. After assessing the situation and ensuring the safety of the students and staff, the TPS officers communicated to TDSB staff the importance of maintaining confidentiality to ensure the integrity of their ongoing investigation process.

During the 2-day hold and secure and the days that followed, communications with parents were focused on two areas: the methods of communications used to share information with parents (email distribution to parents, TDSB website postings, TDSB twitter and others) and what information and level of detail concerning the threat could legitimately be shared publicly without prejudicing the integrity of the police investigation. When the matter subject of the hold and secure was first received, the principal followed the appropriate steps⁵ and immediately contacted the TPS. A decision was made by the school principal, in consultation with TPS to proceed with regular morning entry routines for students and initiate a hold and secure after entry.

Together with the school staff, the Complainants made use of available communications tools in an effort to effectively notify parents and other members of the public of the situation facing the school. These communications tools included: the school website postings (which were regular and numerous), email distribution of information to parents through the school parent council,⁶ posting on the school council Facebook page; postings on the school and TDSB Twitter accounts. In addition, hard copy letters were sent out by the school administration at the end of each day to further update parents. Finally, throughout the hold and secure, the Complainants regularly disseminated information through the media. The day after the hold and secure was lifted, staff at the school subject of the crisis, enabled a communication tool that was inactive. This communication tool which is offered to all TDSB schools, allows for mass email distribution to every family with children in the school who had access to an email account. Once this communication tool was enabled by school staff, they were able to effectively communicate details of the event to all registered parents.

Following the incident, the Respondent received emails from about 20 parents of students at the affected school. It was clear from the emails that the parents wanted a meeting. The Respondent organized a meeting with concerned parents, the TDSB Superintendent, the Principal, and a representative from the local 55th Division TPS. By her admission, the Respondent did not invite any staff from TDSB Communications or Caring and Safe Schools staff, because she believed their presence “may inflame the parents” and would have been seen as “controlling the message”.

E. The October 19th public meeting with parents

⁵ Operational Procedure PR569, Crisis and Incident Reporting

⁶ This email distribution was limited to those parents who had provided their email addresses to the school parent council.

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Following the removal of the hold and secure, the Respondent is alleged to have begun “advocating” for the scheduling of a parent meeting to discuss the event. It was common knowledge that the Respondent only wanted the TPS investigating officer, the Superintendent with responsibility over the group of schools within which the school was located, and the Principal of the school to attend.

Although the Respondent was aware that there was a Ward 16 school council meeting scheduled for October 24th, she voiced her desire to hold her own meeting before the scheduled council meeting and to hold her meeting without Communications staff, and without the Complainants in attendance. The Respondent said that the October 19th meeting was going to be a “poop show” and that it was going to be held primarily to give parents in attendance the opportunity to vent. The Respondent made it clear to the TDSB staff that she invited to the October 19th, that Communications staff wrote at too high a level and that communications to the public should be at a “grade 6 level” and should be “more human” and “understandable”. It was for these reasons that the Respondent decided that an information meeting with parents should not include Communications staff.

There were just under 100 people at the Oct 19th meeting at which the Respondent brought in a facilitator and developed an agenda. At the beginning of the meeting, the Respondent announced that each member of the panel would be given 3 minutes to speak.

The focus of the meeting was to allow the parents to focus on their concerns about the communications process throughout the hold and secure. However, the meeting did not set out the fact that during the hold and secure the TDSB staff were advised by TPS not to share more detailed information as there was an active investigation. When the Respondent made the statement about Communications having “failed miserably”, the parents in attendance responded with loud applause.

V. The Complaint Process

I set out below a summary of the complaint process:

- On November 2, 2017, I received the complaint at the Office of the Integrity Commissioner from two Complainants.
- On November 6, 2017, I contacted the Complainants to confirm receipt of the Code complaint.
- On November 9, 2017, I met with the Complainants to conduct an initial classification of the complaint.
- On November 13, 2017, I wrote to the Complainants acknowledging receipt of the Code

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complaint. I advised that I had conducted an initial classification review of the complaint and the supporting documentation and that I had decided to open a complaint investigation file.

- On November 17, 2017, I wrote to the Respondent providing a Notice of a Complaint Investigation and a copy of the complaint and supporting documentation, requesting that the Respondent provide my office with a written response to the complaint on or before November 27, 2017.
- I granted the Respondent the option of clarifying the process and her concerns in an in-person meeting.
- On November 21, 2017, I met with the Respondent.
- On November 27, 2017, I received a preliminary response from the Respondent and on November 28th, I received the complete response.
- Between November 27th and November 28th, 2017, I conducted witness interviews with 6 individuals.
- On December 19, 2017, I received information from TPS.
- On November 29, 2017, I forwarded the Respondent's comments to the Complainants pursuant to section 6.5 of the Code Protocol.
- On January 3, 2018, I wrote to the Complainants advising that I had requested information from TPS, that I had been directed to speak with their legal counsel, and that legal counsel had requested time to provide me with the information I required.
- On January 22, 2018, I met with the Respondent and received her Supplementary response to the Complaint.
- On January 30, 2018, I forwarded a copy of a Preliminary Report containing my preliminary findings of the investigation to the Complainant and the Respondent.

I advised the parties that they were being provided a copy of my preliminary findings in advance of the issuance of my Final Report pursuant to section 6.6(b) of the Code Protocol. I invited the parties to provide comments on any errors or omissions of fact and/or a statement that I would take into consideration in drafting my Final Report to the Board with any recommended sanctions. I advised the parties that this request for comments was not to be viewed as an opportunity to provide any additional evidence or

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responses to allegations contained in the complaint.

- On January 30, 2018, I was contacted by the Respondent with respect to the Preliminary Findings Report. The Respondent provided supplementary comments.

F. The Respondent’s Initial Response to the Complaint

The Respondent stated that:

To say that I was caught off-guard by the complaint would be quite an understatement. Firstly: I had no idea that the complainants were involved with the issue at [the school]. I was not at the school at any time during the “Hold and Secure”. It is my practice NOT to attend at a school during a crisis except if specifically asked. They have enough to deal with without having to attend to “visiting dignitaries.”

I had contact with the Superintendent and not with the Principal during the “Hold and Secure” ...I do not watch the news [...] so had no idea what work Communications were doing. My primary contact with any communications was by way of the written material sent home to parents.

I was utterly unaware of any work done by the 2 complainants. Why would I be if it was not sent to me specifically? I feel quite safe in saying at no time did anyone ever mention to me that they were there or connected in anyway with the event.

My sole contact was through the parents and they were large in number and very few, if any, were happy with the content, the frequency or the tone. I worked with the parents and kept the Superintendent and Principal informed. I have had approximately 50 emails from concerned and angry parents.

Because [of personal circumstances], I admit that my mind was not fully engaged at [the school] that week. Had I been responding as I might otherwise have done, I would have called the meeting the week of the 9th. It would have headed off a lot of the anger and, what I believe to be genuine fear, that was mounting in the parent community.

I did and do believe that had we not called the meeting when we did that the situation would have gotten completely out of hand.

We held the meeting on the 19th, the community had 3 days’ notice (primarily by an email blast done by a parent Facebook page but also through an email notice sent out from the school office) and just short of 100 people showed up. The Police sent two officers, and the Superintendent and Principal were present.

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I laid out the meeting as follows.

I asked if there were any media in the room. None were. I asked if there were any non-[school] parents in the room. None were.

We began the meeting with the plan for the meeting which was to hear from the panel and then go to the floor for questions. The Principal, the Superintendent, the Station 55 “Commander” and a local officer were the panel. I gave each person 2 minutes to make comment and they did (they ran over a bit but I was pretty tight on the time.) I had a former Trustee there to help keep the questioners lined up and to carry the mic around.

This was a parent meeting and they needed to be heard not talked to.

For the next two and a half hours the parents asked the panel questions. They were clearly agitated but they worked hard to keep on topic.

A great part was their dissatisfaction with the information they got and how they got it.

When I speak about Communications I mean the department. When I speak about material that comes from Communications, I call that communications. If I talk about a person employed by Communication I call them by name. [The Complainants] are employees of the department and it is my expectation that they do what the department expects of them in the language that is sanctioned by the department. If I have a problem with the language I would not be expecting the employed to be free-lancing especially in a crisis like this. I expect they speak in the language sanctioned by the Communication Department. It is the language of the department that was and is my issue, not the individuals. I have tried to discuss this with the head of that department for over a year and to no avail. I have an appointment with the Director and the head of the department in December. I will continue the expression of my concerns there.

The Respondent went on to state that she believed that:

I should have called the meeting the previous week but had serious family matters to attend to. Had I done that I believe that the issue would have been dispatched more quickly and with less acrimony. And I am compelled to ask why the communications department does not know how to handle angry parents except with written material. When people are scared why would Communications not find an effective way to help them deal with their justifiable fear for the safety of their children. I got no angry emails after the meeting. Only ones that asked for the note from the meeting and then silence

VI. . The Investigation Process

I conducted interviews with 8 individuals in respect of my investigation of complaint allegations,
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in addition to the Complainants and the Respondent. All information that I received during interviews and requests for documents were provided voluntarily pursuant to my exercise of the Code Protocol investigation powers. Section 6.5 of the Code Protocol states:

(b) If necessary, after reviewing the submitted materials, the Integrity Commissioner may speak to anyone, access and examine any other documents or electronic materials and may enter any Board work location relevant to the complaint for the purpose of investigation and potential resolution.

In the course of my investigation, I also reviewed public and confidential TDSB documents, including the TDSB’s Discrimination and Harassment Prevention Policy, emails, and certain other materials.

G. Comments of the Toronto Police Service

The TPS is a complex organization. Something like a lockdown can in fact lead to the involvement of more than one branch of the organization. This case involved Corporate Communications and Divisional Policing. The TPS advised that those divisions have the following responsibilities:

Corporate Communication

They provide information to the public, but due to the nature of policing they must balance certain factors. In these cases they are balancing the need for transparency and to provide information to the public for safety and informational reasons. A further balancing is required as they must consider the privacy of those involved and the integrity of an ongoing investigation.

The TPS Communications team feel they have a good relationship with the TDSB communications team. They divulge such details as they can, in light of the above, to the TDSB Communications team as the situation unfolds. They also discuss what may be released to the public and in some cases timing of the release.

Typically they do not release the details of a victim’s identity for safety and for privacy reasons. In particular at schools there are concerns around the identity of young persons in itself, and by association with the suspect or person(s) of interest

From an investigative integrity point of view there may be “hold backs” and they are not released to the public. These are typically things that only the suspect will know.

Finally, information is only released when information has been confirmed by a police source. Information reported to 911 for example is not confirmed. The Service makes

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efforts to ensure that only reliable information is propagated in keeping with the principles above.

Divisional Policing Response to Lockdowns

In addition to the above, and bearing in mind that every threat is different, Divisional Officers have shared some of their thoughts.

The TPS further advised that:

- a. There was “hold back “information on that date which was not shared with the TDSB or its Communications team.
- b. There is always a concern that suspects may be motivated by the media attention they are getting. They often do not start with a lot of information about the suspect and must be careful not to empower suspects or to inform the suspect about tactics, plans, strategy or capacity. All of that information increases the suspect’s knowledge and therefore the suspect’s danger to hostages, police and the public.
- c. They further may also choose not to provide particulars of the event because they are always concerned later on about “copy cats” who are motivated by the media attention in the investigation.

H. The Respondent’ Supplementary Response to the Complaint

The Respondent strongly stated that her dissatisfaction was not with the Complainants or their work but rather with the Communications Department. The Respondent reiterated what was stated in her initial response to the Complaint, which was that the when she spoke of the failings of ‘Communications’, in relation to the September 28th and 29th hold and secure, she was not referring to the Complainants’ work or actions but rather the department’s leadership.

The Respondent’s explanation of and reasons for making her statement “the Communications team failed miserably” was as follows:

When I speak about material that comes from Communications, I call that communications. If I talk about a person employed by Communication I call them by name. [The Complainants] are employees of the department and it is my expectation that they do what the department expects of them in the language that is sanctioned by the department. [The Complainants] do what is within the framework of the TDSB. I have no problem with the Complainants and I think [Complainant # 2] is a lovely person. I have known [Complainant #2] for 10 years. The Complainants use the language sanctioned by

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the Communications Department. It is the language of the department that was and is my issue, not the [Complainants].

It seems to me that the Code of conduct is being used as an obstacle between a Trustee and her community. People are trying to gag me. My community was hurt, and I had the meeting because I care about my community and it was the right thing to do. The Code of Conduct was written for [the TDSB]. But what happens when the Corporation hurts the reputation of the Board, the Trustees and the people we are elected to help. People are being hurt and the rule [of the Code] that we put in place to help those who are disadvantaged are being used to hurt the very people we want to help.

Conduct is more than how you treat your employees. It's the relationship between a Trustee and her community, because I care about them. My role is to protect my community, to protect the children.

VII. Analysis

I.Issues #1 and #2 – Allegations of Maliciously or Falsely Injuring the Reputation of Staff

The Respondent's response states that she was "utterly unaware of any work done by the 2 complainants". The comment presents a lack of understanding of the professional expertise and work done by the Complainants at the TDSB.

While I was not tasked with determining whether or not the Complainants' conduct was appropriate, to ensure that the Respondent's comments were false, it was necessary for me to consider the conduct of the Complainants. The consensus among the witnesses with whom I spoke was that the Communications department generally and the Complainants in particular, are essential in crafting and conveying information to the community which informs, reassures and guides actions in the best interest of the TDSB students and parents. Communications staff "put in the appropriate level of information to make staff's life easier"; "they listen", and "they help us through the process". In respect of the communications support during the 2-day incident, TDSB staff at the school where the hold and secure took place, as well as senior officials at the TDSB said that the Complainants did an excellent job and that they were "attentive", "thoughtful" and "collaborative". Senior staff at the TDSB received emails from parents at the school who expressed their gratitude for how the incident was handled and the thoughtful on-site assistance of the Complainants.

The Communications team at the TDSB that handles the communications aspect of such security and high risk matters in this area of Toronto is comprised of essentially the two Complainants. As a result, any comment about the work done by the Communications team, is a criticism of the work of the Complainants.

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The terms used by witnesses to describe the professional performance and actions of Complainant #1, included “terrific” and “helpful”. Terms to describe the professional performance and actions of Complainant #2 included “attentive”, “respectful”, “collaborative” and “integral to managing a crisis of this type”.

In supplementary comments provided to me by the Respondent at a meeting, she clarified that when she said, “the Communications team failed miserably”, she meant that “we failed”. Notwithstanding her inclusion of herself in what she deemed to be failure to meet the needs of the parents in Ward 16 in respect of accurate levels of information dissemination, the Respondent’s comments maligned the Complainants’ reputation to a room full of school parents, which had the impact of injuring the professional reputation of the two staff of the TDSB.

In her response, the Respondent describes her account of having spoken to the Communications head about a year ago about the language used by the Communications department of the TDSB to communicate with the community. In particular, in response to the media releases that invite parents to “rest assured”, the Respondent advises that Ward residents asked “what did [theTDSB] do to help us” and “what they did, didn’t help”.

While there is no direct evidence of harm to reputation, it is clear that the Respondent has undermined the work done by the Complainants. Additionally, she was not respectful of the professional capacities of the Complainants.

The Respondent’s various explanations for her conduct do not change the fact that many members of the public in attendance at the Oct 19th parents’ meeting, would have understood that the Respondent’s comments that “Communications ‘failed miserably’ “ were unfair criticisms of staff’s work, and in particular, of work by the Complainants.

The Respondent has tried to explain her comments in different ways. At a meeting with me, the Respondent appeared to be critical of a lack of forthright communication by all parties, including herself. In her supplementary response, the Respondent appeared to be critical of the Communications department “as a whole”. The question for the purposes of making a determination on this Complaint is what a member of the public at the Oct 19th meeting would have understood from the Respondent’s comments. The Complainants are tasked with communications (i) within a local area and (ii) for urgent matters.

The Respondent defends her remarks as not intended to malign the reputation of the Complainants, but rather are intended to express her dissatisfaction with how information is generally communicated to parents. To the extent that the Respondent is suggesting that all of the work done by the Communications department does not meet her standards, I don’t believe that

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the Respondent’s shift in focus to criticizing the Communications department as a whole, is central to the Complaint.

Whether or not the Trustee believed that the constituents in her Ward, required detailed information or clarification on existing information, making statements in public denigrating staff’s work performance, whether in relation to the 2 Complainants or staff of a department as a whole, is impugning the professional integrity of staff and is behaviour that is wholly inappropriate for a Trustee. This criticism is especially of concern when one takes into consideration that TDSB staff have no means by which to defend themselves in a public forum against false statements regarding their work performance. What opportunity does a professional staff person have in such a situation but to submit to the ongoing public berating and criticism from the Respondent.

The Respondent’s explanation for her comments is that the Complainants are the mistaken focus of her criticism. However, what the Respondent views as an acceptable defense of her comment, that is that her focus was not the Complainants but rather the department as a whole, remains a highly critical and disparaging commentary about various staff. The Respondent’s comments were made at a parents’ meeting where a member of the public at the meeting would have reasonably understood undoubtedly, that the comments that they “failed miserably” were unfair criticisms of the Complainant’s work. To state as a justification for the comments, that her intent was not to malign the Complainants but rather other staff, generally or the department specifically, is disrespectful of the capabilities and autonomy of staff, in contravention of Rule 6.9 of the Code.

J.Issue #3 – Allegations of Discreditable Conduct

The Trustee harmed the Complainants’ reputations within the workplace and contributed to the position taken by parents that the Communications staff could have done more to help parents and students during the 2-day hold and secure and could have provided more detail.

In her comments to me, the Respondent states that for 40 years, she has had to write her own brochures and communications resources. She states that she receives good comments from her Ward residents because she is honest with them. Conversely, the Respondent finds what the Communications department does in issuing media releases, is condescending and conveys a message of “we know better than you” to the parents and the general public.

I am convinced that the Respondent is a well-intentioned honest person, and a Trustee who is committed to serving her community. I accept her statement that she cares about her community and sees her role as protecting the students of the schools in her Ward. I also accept that the Respondent did not intend to malign the work done by the Complainants. However, she is very opinionated and anxious to express her personal opinions about her dissatisfaction with staff’s

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work performance in a very public way. A Trustee’s role is not to insert him or herself into the performance evaluation of staff’s duties. The Board, as a whole, may give direction to the Director of Education on specific priorities and direction for the administration of Board business, however, a Trustee cannot publicly evaluate a staff member’s job performance. The Respondent believed that she could do so. This was demonstrated throughout the matter subject of this investigation, including the Respondent’s organizing of the Oct 19th evening parent meeting, without extending an invitation to the Complainants, even though explaining communications decisions and providing answers to questions about communication during a particular school event is the area of responsibility of Communications staff. While the Respondent explained that she did not invite anyone from Communications, including the Complainants because she believed that their presence would “inflamm” the parents and the Communications staff would try to “control the message”, the Respondent ought to have known that the Complainants role at the TDSB is to provide important information to parents and the community. By not inviting the Complainants to the Oct 19th meeting and making the derogatory statements about the Communications team, the Respondent failed to show respect for staff that worked diligently and conscientiously to support the school an provide available information in a way that was sensitive, timely, regular and respectful of the work of the criminal investigation of the police.

The Code states that Trustees shall refrain from abuse, bullying or intimidation, to ensure that the TDSB work environment is free from discrimination and harassment. Publicly criticizing individual members of staff in a way that casts aspersions on their professional competence and credibility is tantamount to workplace intimidation. The choice of holding an evening parents’ meeting at which the Complainants were not invited and at which the Respondent made objectionable comments about the Complainants’ professional abilities cast aspersions on their professional reputation. Whether the Respondent’s intended focus was the Complainants or other staff, her comments were about staff, cast aspersion on the professional competence of staff and her comments therefore, in a public forum especially, were wholly inappropriate.

Publicly stating that the “the Communications team failed miserably” gives rise to a legitimate concern that the Respondent is undermining the work done by the two Complainants because the team at the TDSB that handles the communications aspect of such matters in this area of the City is comprised of essentially the two Complainants. These staff members do not have the opportunity to set the record straight in a public forum.

The Respondent’s comments at the October 19th meeting insinuated that Communications staff had acted inappropriately. This was an unwarranted public criticism of TDSB staff, in circumstances where the Respondent had apparently not made any efforts to determine what steps the Communications team had actually taken throughout the hold and secure at the school; indeed, the Respondent stated that she was “utterly unaware of any work done by the 2 complainants”. The Complainants were understandably upset by the Trustee’s remarks, especially given the fact that the two Communications professionals communicated all the

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information that they were able to share with the public, in accordance with the requirements of law enforcement investigative confidentiality rules of the TPS.

It is my opinion, based on the evidence before me, that the Respondent knew or ought reasonably to have known that her conduct was improper. I find that the Respondent has breached Rule 6.10 of the Code by creating/contributing to an intimidating work environment

There are several factors that lead me to this conclusion:

1. Balance of Power:

There is a substantial power imbalance between the Complainants and the Respondent which must be considered. Courts and tribunals now recognize that a substantial power imbalance can erode, if not impede, a Complainant's belief that they can address intimidating and harassing behavior. The victim fears unforeseen consequences which could seriously impact that work-related autonomy and reputation. In these cases, it is not uncommon for victims of harassment to tolerate unwanted behaviour longer than expected. The Ontario Human Right's Commission notes that a person does not have to object to the harassment at the time it happens for there to be a violation, or for the person to claim their rights under the Code.

In this case, the Respondent is in a position to exclude Communication staff from operational and functional activities that form part of their professional work duties and is a prominent Board politician.

2. Admission of Conduct:

The Respondent, acknowledges that she made the comments; however, she denies that her comments amount to discreditable conduct or intimidation, insofar as she believes the TDSB failed the parents and students of the school and she was merely stating the truth. The Respondent does not view her comments as objectionable or improper because she believes the Communications department, “failed miserably” in providing sufficient information and in a timely manner to allow the parents to adequately grasp the situation that was unfolding in a way that reassured them of the absence of a real danger. Trustees are allowed to voice their opinions about matters before them for discussion at Committees and Board meetings. However, rule 6.9 states that Trustees must carry out their duties as defined within section 218.1 of the *Education Act*. The Board of Trustees as a whole, approves policy and other Board matters. Staff members serve the Board of Trustees as a whole. Members of the Board must be respectful of the role of staff to provide advice based on their professional expertise, without undue influence or fear of reprisal from any individual member of the Board. Trustees must recognize that ,pursuant

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to the *Education Act* and the Governance Policy, a Trustee recognizes that they shall entrust the day to day management of the board to its staff through the Board's Director of Education.

VIII. Conclusions

When acting in their public roles, Trustees are required to comply with the Code. These rules provide them with a reference guide and a supplement to the legislative parameters within which they must operate.

When evaluating the integrity and ethical conduct of a Trustee, my role is to apply the rules of the Code to the facts gathered throughout the investigation and make a determination as to whether there has been a breach of the Code.

Based on the cumulative evidence of the witnesses, my review of the documents and all other information received during the course of this investigation, I have found that the Respondent has contravened Rules 6.9 and 6.10 of the Code of Conduct. I am satisfied that the Respondent did not intend to malign or falsely injure the reputation of the Complainants. However, the Respondent's actions and statements at the October 19th parents' meeting cast aspersions on the professional reputation of the Complainants and insinuated that Communications staff had acted inappropriately. This was an unwarranted public criticism of TDSB staff, in circumstances where the Respondent had apparently not made any efforts to determine what steps the Communications team had taken.

I tender this report of my complaint investigation, findings and recommendations on sanctions to the Board for its consideration.

Integrity Commissioner's Recommendations:

The Integrity Commissioner recommends that the Board impose the following sanction:

1. Censuring the Respondent for her statements made at the October 19, 2017 parents' meeting in respect of the "Communications team failed miserably".

The Integrity Commissioner recommends that the Board impose the following remedial action:

2. That within 30 days of the Board's receipt of this report, the Respondent tender a written apology to each of the Complainants expressing her understanding of the impact of her Oct 19th statements on the Complainants' professional reputations and her regret for any misunderstanding her comments may have caused by inferring the Complainants or the

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Communications department acted inappropriately and did not fulfill their duties as Communications professionals.

Respectfully submitted by:

Suzanne Craig
Integrity Commissioner

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