



Communications Now

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wanting to know what is really going on and ask for the trustee’s opinion.

When sensitive things happen, it is difficult to resist the urge to confide in your best friend, and it’s tempting to want to tell your side of the story.

Your constituents elected you to take charge and take action. They expect you to be open and honest. The problem is that being open and honest may violate the rights of the people involved and could lead to legal trouble for you and your jurisdiction.

The number one rule when asked about a sensitive issue:

Do not talk with anyone but the superintendent until you know the facts, know if you can say anything and, if you can say something, what you can say.

In Alberta, the school boards’ actions are guided by the Freedom of Information and Protection of Privacy Act (FOIP Act), which seeks to strike a balance between the public’s right to know and the individual’s right to privacy, as those rights relate to information held by public bodies.

These statutory provisions generally provide for the sharing of information on a need-to-know basis, and in many circumstances will severely limit the information that may be shared by the board’s chief executive officer with the trustees themselves.

This article is especially for trustees and superintendents

Dealing with a sensitive issue

When a staff member is accused of improper behaviour or a major incident happens at a school, rumours fly.

Often the rumours are worse than the facts. When that’s happening, the superintendent and trustees will be sorely tempted to set the record straight, yet are constrained by legal and other considerations.

These situations are especially difficult for trustees who are contacted by friends and other constituents

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To make handling these situations easier, trustees need to have advance knowledge of general legal constraints, a group agreement regarding talking about sensitive issues and a process established with the administration.

Ideally, the jurisdiction will:

- Have an established protocol for responding to public/parental inquiries about a matter which erupts at the school or jurisdiction level;
- Be in a position to provide consistent, accurate, timely messages for the board, the school involved and jurisdiction staff; and
- Take an approach that respects the legal processes and the rights of all individuals involved.

Basic training for trustees

Training should include information about legal constraints affecting personnel issues and privacy rights of students and staff. Trustees need to know and understand their obligations under the FOIP Act. A training session regarding such issues is usually a good time for new trustees to explore their comfort levels for discussing sensitive issues, legal constraints, and to receive help with how they should respond when they are unable to provide the information being demanded. Training in how to work with and respond to news media requests will also be very helpful.

Process for emergent issues

Trustees should learn a jurisdiction's process for how trustees will receive information about emerging issues and issues that suddenly occur. In many jurisdictions the superintendent will share critical information, on a need-to-know basis with board members in the strictest of confidence. In some jurisdictions, a phone call is made to each trustee giving basic information. This information may include legal advice about facts that can and cannot be revealed and where trustees should refer people who want information about the incident.

Establish a protocol for responding to media and public inquiries

Agree in advance how trustees will respond to public and news media inquiries about sensitive situations. In some cases, the board may designate a spokesperson. In other cases, individual trustees may have basic facts they can disseminate and other facts they cannot reveal. Some school boards have an agreement that all questions about sensitive issues will be referred to a staff person designated by the superintendent.

The biggest challenge for many trustees is carrying out the agreements about communications concerning sensitive issues.

Trustees' most frequent question is, "But I have to say something, so what do I say?" In some cases and some jurisdictions the communications staff member and/or superintendent will furnish trustees with statements they can make and legal guidelines to help them avoid saying things they should not say. ASBA legal and communications staff are available to assist with this.

The superintendent, who is usually the key contact in such cases, may be limited in the information that he/she can share with board members if they involve personnel matters, or a student who is, for example, involved in a criminal matter under the young offenders legislation. In many emergent circumstances, it will be important for all involved to remember that the information provided is in the realm of allegations and that strategies to address communication plans surrounding sensitive issues may need to be adjusted depending upon what happens next in any given scenario. As such, many boards will designate the superintendent as the individual responsible to steer the jurisdiction through the communication plan in all such sensitive situations.



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Examples of sensitive situations

The following examples of various situations and sample statements might be helpful to trustees as they consider how to respond to a sensitive situation:

Students are severely injured or critically ill

Students privacy rights are protected under the FOIP Act, the School Act and the Student Record Regulation. If there is a criminal aspect to the matter, any youths involved also have privacy protections under the Youth Criminal Justice Act.

The FOIP Act regulates information that can be released about a student. Trustees should not identify the names of students. The personal information of the student and the family involved must be protected in accordance with the board's obligations under the FOIP Act. The board's designate will be in a position to determine whether or not the enrolment of the student can be confirmed.

The jurisdiction's response in matters involving student safety issues should focus on the fact that the board is guided in its actions through its policies and procedures in addressing concerns about the health, safety and well being of all students.

Unless students were injured at school, this is not really a jurisdiction concern, and you should refer inquiries to the proper agencies such as law enforcement or Alberta Health.

If the matter does involve a school-based incident, trustees need to know where to direct inquiries.

Superintendents will typically ask that any inquiries regarding the matter be directed to the superintendent. The superintendent may identify the name of an individual who will handle student or parental inquiries, while the superintendent will generally handle all of their inquiries including the media. Should a trustee be questioned individually, the trustee could respond with a phrase such as: "Our superintendent is the best person to speak with. Please contact him/her at [insert phone number]."

The bottom line with this and most situations that involve students is that you should not give out information about students.

Student misbehavior at school

In Alberta, the Student Record Regulation also governs information regarding the use of student information. As explained above, when students are involved, you need to be aware of and observe student privacy laws.

Comments should never be made about individual students, nor should the identity of individual students be revealed or confirmed. Your comments should be restricted to explaining the relevance of the jurisdiction's protocols and procedures for investigating and taking action, indicating that the board's actions in all such circumstances are guided by attending to the safety and security needs of all individuals involved. Trustees should not be involved in direct conversations with parents of students who were involved in an incident.

In some jurisdictions, trustees will sit on a student expulsion committee. If the parents of a student were to appeal a suspension or expulsion matter to the school board and the trustee sat on that committee, they may be accused of bias and could compromise the expulsion proceeding, if the trustee had discussed the student's actions or consequences with the parent.

In the case of student misbehaviour, the best course of action is to explain that discussing the case would violate the rights of the student or students involved and refer the person inquiring to the appropriate person in the jurisdiction administration.

Alleged staff misbehaviour

If a staff member is accused of inappropriate behaviour toward a student(s), the administration, trustees, staff and students often become the focus of a lot of community attention.

Parents may be angry, students may think one of their favourite teachers is being unfairly accused, news media see a great story for generating a larger audience. This situation is not only uncomfortable; it also has potential for legal action. Commenting on the alleged behaviour of, or your perceptions about, a staff member is an open invitation to legal action.



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All inquiries should be referred to appropriate staff for comment. Having a communications plan in place to respond to the incident will be of critical importance. The confidentiality of all parties involved must be strictly maintained. All protocols should be strictly adhered to.

The superintendent will usually be responsible for devising the communications plan, which may be a component of the legal strategy for addressing the situation. Typically, the board's designate will provide information to the board in the strictest of confidence on a need-to-know basis. The board's designate may be severely restricted in the information that they can share with trustees, particularly where the incident involves a personnel matter which may end up before the board at a future date. As all such administrative matters generally fall within the realm of administration, trustees must be respectful of the distinctive roles.

When parental or media inquiries begin, and trustees are contacted for their views, trustees should direct any inquiries to the designated spokesperson.

The specifics of any circumstance must not be identified. In circumstances where trustees are advised to direct all inquiries to the superintendent, they would typically be advised not to comment on the matter at all, nor to discuss same with anyone else.

Trustees should not assume that they can speak on the matter any further, nor give any general information regarding an investigation as they will not, in most circumstances, be privy to that information themselves. Trustees are cautioned to strictly follow the recommendations of their superintendent and to not comment on personnel matters, treating them in the strictest of confidence.

In Alberta, a person who willfully discloses personnel information in contravention of Part 2 of the FOIP Act may be found guilty of an offence and liable to a fine of not more \$10,000. Such disclosure could seriously impede an investigation of the matter or have adverse consequences from a personnel and jurisdictional perspective.

In all cases of sensitive issues...

Although it may go against your belief in being transparent and open, it is much wiser to not speak at all than to say something that will have long-lasting, unintended consequences.

Be careful not to confirm in any way what you are not willing to say or should not say. Beware of questions that can become traps, such as "Can you confirm for me one of the students who did this is Joe Smith?" or "Many parents are telling us they are concerned about a child at Jackson School having AIDS—what do you have to say about that?" or "I'm calling about high school teacher Joe Doe being on administrative leave." Each of these contains a trap that your careless response can lead you into.

In some cases, part of the statement may be misinformation, but if you say 'that is not correct information', then you will be pushed to tell which part is not correct.

In other cases, the person calling may have only heard a rumour that something happened and may be fishing for more information.

Long before you face a sensitive issue, explain to friends and family the reasons you will be unable to discuss these issues with them. Your awareness of the rules and your respect for the rights of others will actually protect your friends and family from having the burden of knowing things they cannot talk about.

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