



J. Paul Dubé, Ombudsman

BY E-MAIL

June 12, 2024

Vicki Houston
Director of Education
Greater Essex County District School Board
451 Park Street West, P.O. Box 210
Windsor ON N9A 6K1

Dear Director Houston:

Re: School naming process complaints

My Office received more than 300 complaints that raised concerns about the Greater Essex County District School Board's process for naming a new kindergarten to grade 12 school located in Kingsville. In addition, many of these complaints raised concerns that during closed meetings on February 20, March 19, April 2, and April 16, 2024, the Committee of the Whole may have improperly discussed the name or naming process for the new school.

I am writing to share the outcome of my review of these complaints.

Ombudsman's role and authority

The Ontario Ombudsman has oversight of hundreds of public sector bodies, including provincial government organizations, municipalities, and publicly funded universities. Since September 1, 2015, my Office has the authority to review and investigate complaints about the administrative conduct of school boards, including complaints concerning meetings held by a board of trustees or a committee of a board. You can read my previous decisions on, and interpretations of, the *Education Act's* open meeting rules here: www.ombudsman.on.ca/what-we-do/topics/education/investigations-and-reviews-school-board-meetings.

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The Ombudsman's mandate also includes reviewing complaints about the services provided by children's aid societies and residential licensees, and the provision of French language services under the *French Language Services Act*. Read more about the bodies within our jurisdiction here: www.ombudsman.on.ca/have-a-complaint/who-we-oversee.

In addition, my Office is the closed meeting investigator for more than half of Ontario's 444 municipalities. As the province's default closed meeting investigator, my Office is responsible for determining whether a municipality has complied with the open meeting requirements outlined in the *Municipal Act, 2001*.¹

My Office has investigated hundreds of closed meetings since 2008. To assist municipal councils, staff, and the public, we have developed an online digest of municipal closed meeting cases. This searchable repository was created to provide easy access to the Ombudsman's decisions on, and interpretations of, the open meeting rules. While the open meeting requirements in the *Municipal Act* differ from those in the *Education Act*², school boards can consult the digest to inform their discussions and decisions on whether certain matters can or should be discussed in closed session, as well as issues related to open meeting procedures. Summaries of the Ombudsman's previous decisions can be found in the digest: www.ombudsman.on.ca/digest.

Ombudsman review

In response to the complaints we received, my Office reviewed relevant portions of the School Board's website, its Governance By-Laws, and various School Board policies and regulations, including the Trustee Code of Conduct regulation, the Public Concerns regulation, and the Naming and Renaming of Board Facilities policy and regulation. We also reviewed the open and closed meeting agendas, reports, and minutes, as well as the public video recordings of the Board of Trustees' February 20, March 19, April 2, and April 16, 2024 meetings. We spoke with the Director of Education, the Executive Assistant to the Director of Education, and the Chair of the Board of Trustees.

¹ SO 2001, c 25

² RSO 1990, c E.2



School naming process

My Office received various complaints that raised concerns about the process for selecting a name for the new school located in Kingsville, including with respect to the conduct of individual trustees, public participation at public meetings, and the procedures followed at meetings held by the Board of Trustees.

The School Board has adopted a policy to govern the process for naming and renaming schools, called P-PL-01: Naming and Renaming of Board Facilities (the “Naming and Renaming Policy”). This Policy states that the Board of Trustees is responsible for approving the names of all new and amalgamated schools within the School Board, as well as for renaming schools and School Board facilities. Specific details regarding the establishment of a Naming Committee, the criteria for the naming of schools and board facilities, and recommendations for a consultative process are set out in Board Regulation R-PL-01: Naming and Renaming of Board Facilities (the “Naming and Renaming Regulation”).

Consistent with this Policy and Regulation, the School Board established a Naming Committee for this new school. Committee members voted on their top choices for a name, and the Committee submitted its top two names to the Board of Trustees (the “Board”) for its consideration.

On February 20, 2024, the Board of Trustees held a public meeting where the topic of school naming was discussed. During this portion of the meeting, the trustee who chaired the Naming Committee suggested an alternative name for the school, as allowed for in the Naming Regulation. This trustee brought forward a motion, which was seconded by another trustee, to name the new school “Erie Migration Academy.” Trustees discussed and debated the motion before voting on it. A majority of the members of the Board voted in favour of this motion, and the motion passed.

Members of the public subsequently raised various concerns with the School Board, including about the acronym for the school’s name. At a public meeting held on March 19, 2024, the Board passed a motion to refer both the Naming and Renaming Policy and a related regulation back to the Board’s Policy Committee for reconsideration and review. We understand that the Policy Committee is currently reviewing the Policy and Regulation.

On April 2, 2024, the Board of Trustees held a special meeting where it passed a motion to change the name of the school to “Erie Migration District School.”

On April 17, the Chair of the Board of Trustees released a public statement that noted that the new school's name choice had been discussed, debated, and voted on by a majority of trustees on two occasions. The Chair stated that the school's naming process had concluded.

Analysis

My review confirmed that the Board of Trustees acted in accordance with the School Board's policies, regulations, and the Governance By-laws with respect to the processes and procedures for naming this new school.

With respect to the concerns raised about the conduct of individual trustees, my Office is not responsible for examining the conduct of democratically elected officials. Rather, these concerns can be raised through the process outlined in Public Concerns Regulation R-AD-52, which states that complaints about a trustee should be made to the Chair of the Board, and complaints about the Chair should be made to the Vice-Chair. My Office will be providing this referral information to individuals who raised concerns about trustee conduct.

February 20, 2024 closed meeting

Many complaints raised concerns that on February 20, 2024, the Committee of the Whole may have improperly discussed the new school's name and/or naming process in closed session.

The Committee of the Whole held a closed meeting in the committee room of the School Board's Administrative Building on February 20, 2024 beginning at 6:00 p.m. The closed meeting agenda states that the Committee of the Whole went into closed session to discuss a "personnel" matter, and the open meeting minutes explained that the Board was relying on section 207(2)(b) of the *Education Act* to discuss "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."

According to the closed meeting minutes, a trustee "provided an overview of how the Naming Committee was selected and how input was gathered." The Chair told us that she interrupted the trustee during this part of the meeting and directed the trustee to limit their comments to topics that could be discussed in closed session, such as personal matters involving staff members. The Board proceeded to discuss personal matters about identified individuals,



including various individuals' personal feelings and concerns. The Board of Trustees subsequently returned to open session, and publicly discussed the school naming process before passing a resolution to name the school "Erie Migration Academy."

Analysis

Section 207(1) of the *Education Act* states that all meetings of a board of trustees and a committee of the board shall be open to the public. Section 207(2) allows for meetings of a committee of a board, including a committee of the whole board, to be closed to the public where 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.

A meeting of a board of trustees or a committee of the board must also be closed when discussing an ongoing investigation respecting the board under the *Ombudsman Act*.³

Section 207(2)(b) allows a meeting to be closed to the public when the subject matter under consideration involves 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. The *Education Act* does not define "personal information" for the purposes of this section 207(2)(b).

³ s 207(2.1).



In the municipal context, I have noted that information about an individual in their professional capacity may qualify as personal information if it reveals something of a personal nature.⁴ For example, my Office has found that discussion of harassment allegations and an individual's personal concerns about their work environment fit within the exception for personal matters about an identifiable individual.⁵

My Office's review found that during the closed session, the Committee discussed personal matters about identified individuals, including staff members and members of the Naming Committee. These discussions revealed information that was of a personal nature. The discussion was not about what the school should be named, and specific options were not canvassed. Accordingly, this discussion fit within the exception for intimate, personal or financial information respecting a specifically identified individual.

Further closed meetings

Some complaints also raised concerns that the Committee of the Whole may have improperly discussed the new school's name or the naming process in closed session on March 19, April 2, and April 16, 2024.

On March 19, the Committee of the Whole held a closed meeting in the committee room of the School Board's Administrative Building beginning at 4:00 p.m. Our review found that during the meeting the name and/or naming process was briefly raised twice. The school name and the naming process itself were not discussed, although they were indirectly referenced in the context of other discussions.

On April 2, the Committee of the Whole held a closed meeting in the committee room of the School Board's Administrative Building beginning at 5:00 p.m. Our review did not find any evidence to suggest that the Committee discussed the school name or the naming process in this closed session.

⁴ *Nipissing (Township of) (Re)*, 2023 ONOMBUD 2 at para 23, online: <<https://canlii.ca/t/jv6ch>>.

⁵ *Amherstburg (Town of)*, 2015 ONOMBUD 33 at para 44, online: <<https://canlii.ca/t/gtp7d>>.



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On April 16, the Committee of the Whole held a closed meeting in the committee room of the School Board's Administrative Building beginning at 6:30 p.m. Our review found that the Committee briefly referenced my Office's review of complaints relating to the naming process. However, the Committee did not discuss the school's name or the naming process.

Conclusion

My review confirmed that the Board of Trustees acted in accordance with the School Board's policies, regulations, and the Governance By-laws respecting the processes and procedures for naming the new kindergarten to grade 12 school.

In addition, my Office found that the Committee of the Whole's *in camera* discussions on February 20, 2024, fit within *the Education Act's* exception for intimate, personal or financial information respecting a specifically identified individual. We also determined that the Committee of the Whole did not discuss the substance of the school name or the naming process in closed session on March 19, April 2, or April 16, 2024.

I would like to thank the School Board for its co-operation during my review. You have confirmed that this letter will be included as correspondence at an upcoming Board of Trustees meeting.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul Dubé', written over a horizontal line.

Paul Dubé
Ombudsman of Ontario

Cc: Gale Simko-Hatfield, Chair, Board of Trustees

Cette lettre est aussi disponible en français

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