

## **TERMS OF REFERENCE AND OPERATIONS**

### **HALTON CATHOLIC CHILDREN'S EDUCATION FOUNDATION**

*This document provides the Terms of Reference to guide the transaction of the business and affairs of the Halton Catholic Children's Education Foundation, hereafter designated as "The Foundation".*

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#### **1. Head Office**

The head office of the Foundation shall be in the Region of Halton in the Province of Ontario, at such place therein as the Board of Directors may from time to time by resolution determine.

#### **2. Seal**

The corporate seal of the Foundation shall be such as the Board of Directors may by resolution from time to time and shall be entrusted to the Secretary of the Foundation for its use and safekeeping.

#### **3. Directors**

The Directors of an organization are the persons who are members of its board, namely the Board of Directors of "The Foundation". The exercise by the Board of Directors of its powers usually occurs in board meetings. The powers of the board are vested in the board as a whole, and not in the individual directors. The individual director or officer must avoid inappropriately binding "The Foundation" and should not be seen to be acting by virtue of deemed authority.

##### **3.01 Board of Directors**

- 3.01.1** The affairs of "The Foundation" shall be managed by a Board of Directors ("the Board") with a minimum of nine (9) persons and a maximum of 12 persons, who may exercise all such powers and do all such acts and things as may be exercised or done by "The Foundation" and are by any resolution of "The Foundation" or by statute expressly directed or required to be done by "The Foundation" at a meeting of members.
- 3.01.2** Three (3) seats on "the Board" shall be reserved for the Catholic community of Halton Region as established by the terms of reference.
- 3.01.3** Three (3) seats on "the Board" shall be reserved for the individuals associated with the Halton Catholic District School Board (HCDSB) as established by the terms of reference.
- 3.01.4** Three (3) seats on "the Board" shall be reserved for the general membership of the Catholic Church community in Halton as established by the terms of reference.
- 3.01.5** It is the expected that "the Board" membership will be representative of the three communities, as set out above.
- 3.01.6** Up to three (3) additional seats on "the Board" shall be reserved for community members at large across Halton Region, as established by the Terms of Reference.

**3.01.7** “The Board” shall be responsible for selecting the above members to the “the Board” as positions become available and as recommended by the Governance and Nomination Committee.

**3.02 Qualification of Directors**

Directors shall be individuals, 18 or more years of age and shall meet the requirements for serving as a director described in this Section. The expectation is that members of “the Board” will be generally supportive of publicly funded Catholic education and committed to ensuring the well-being of children and students enrolled within the Halton Catholic District School Board.

**3.03 Appointment of Directors and Term of Office**

**3.03.1** The appointees for the new “Board” shall be the first directors of the renewed Foundation whose term of office on the Board of Directors shall continue until their successors are appointed.

**3.03.2** The directors’ terms of office (subject to the provisions, if any, of the letters patent or any supplementary letters patent issued to the Foundation) shall be from the date of the meeting at which they are first appointed until (a) the Annual General Meeting of the year their term expires; (b) they resign; (c) are removed by the Board or (d) until their successor is appointed, whichever comes first.

**3.03.3** Directors shall be appointed by “the Board” on the recommendation of the Governance and Nomination Committee. Consideration should be given to differing terms for these original Board members in order to ensure progressive turnover of the Board members thereby avoiding a total change of all members.

**3.03.4** Subject to the decisions or resolutions of “the Board”, directors shall be eligible for appointment for a maximum of two terms of three years each, or a total of six years with the provision that they may return as directors following a one year absence. There is no limit to the number of times that they may return.

**3.03.5** And provided that if elected by “the Board” to occupy the position of Chair, or Vice-Chair, they shall be able to serve as officers to the end of their term as mandated by “Section 5 Officers”, notwithstanding the six year rule and without a year’s absence.

**3.03.6** In considering the qualifications of a prospective director, the Governance and Nomination Committee shall look for a person whose character, profession, experience and skills will make a positive contribution to “the Board” and further the goals of “The Foundation”.

**3.03.7** The Governance and Nomination Committee shall ensure that “the Board” represents a good cross-section of the designated municipal communities of Halton and the constituency group identified 3.01.

**3.03.8** The Governance and Nomination Committee shall ensure that the composition of the Board of Directors has a minimum of one person who is financially knowledgeable.

**3.03.9** " The Board" may fill a vacancy, however caused, on the recommendation of the Governance and Nomination Committee.

**3.04 Resignation of Office**

A person ceases to be a director of the Foundation if that person:

- (a) by notice in writing resigns from "the Board";
- (b) fails to diligently and faithfully carry out their duties as a director; or
- (c) fails to, or is incapable of, carrying out any of their duties as prescribed by statute.

**3.05 Removal of Directors**

"The Board" may, by resolution passed by at least two-thirds of the votes cast by "the Board" at a meeting of which notice specifying the intention to pass such resolution has been given, remove any director before the expiration of his or her term of office.

**3.06 Remuneration of Directors**

The directors of the Foundation shall serve without remuneration and no director shall directly or indirectly receive any profit from his or her position as such; provided that a director may be paid reasonable expenses incurred by him or her in the performance of the director's duties.

**4. Meetings of Directors**

**4.01 Regular Meetings**

"The Board" shall hold its regular meetings in the head office of the Foundation according to the schedule to be set annually and approved by "the Board", or at such other time or place as may be designated by "the Board" from time to time.

**4.02 Special Meetings**

A special meeting of "the Board" may be convened by the Chair of the Board, at the request of the Executive Director affirmed by the Chair of the Board, by any two directors at any time, and by the Secretary at the direction of the Chair of the Board or any two directors.

**4.03 Committee Meetings**

The Standing Committees of "the Board" shall hold their regular meetings at such time or place as may be designated by the Board of Directors from time to time.

**4.04 Meeting Cancellations**

Notwithstanding any other provision contained in this Section, the Chair, or in his or her absence, the Vice-Chair, may cancel a regular meeting of the Board of Directors, if the Chair or Vice-Chair deems it is not warranted.

**4.05 Meeting Notice**

Notice of any meeting of "the Board" shall be provided to each director at least three (3) days before the meeting is to take place; provided always that meetings of the Board may be held at any time without formal notice if all the directors are present or those absent have waived notice or have signified their assent in writing to such

meeting being held in their absence. Notice of any meeting or any irregularity in any meeting or in the notice thereof may be waived by any director.

#### **4.06 Chair**

The Chair of the Board shall, when present, preside at all meetings of the Board and of the members. In the event that the Chair is not present at a Board of Directors meeting at which he/she is to preside, the Vice-Chair, or designate, shall call the members to order and shall preside until the arrival of the Chair. Should, in such situations, the Vice-Chair not be in attendance at the meeting concerned, then those members of "the Board" in attendance shall, by resolution, appoint one of themselves to act as Acting Chair for that meeting until either the arrival of the Chair or the Vice-Chair.

#### **4.07 Electronic Participation**

A director may, with the consent of the majority of directors of the Foundation, participate in a meeting of the directors or of a committee of directors by telephone or electronic means that permits all participants to communicate adequately with each other during the meeting. A director so participating in a meeting is deemed to be present at the meeting.

#### **4.08 Quorum**

**4.08.1** A quorum at any meeting of "the Board" shall be presence in person of at least a majority of the directors. If during the course of a Board of Directors meeting a quorum is lost, then the Chair shall declare that the meeting shall stand recessed or adjourned, until the date of the next regular meeting or other meeting called in accordance with the provisions or resolutions established by the "Board".

**4.08.2** Notwithstanding the above, a meeting which has been interrupted through the loss of quorum may be reconvened without notice, provided that the meeting is reconvened on the same date.

#### **4.09 Voting**

**4.09.1** Questions arising at any meeting of the "Board" shall be decided by a majority of votes. In case of an equality of votes, the matter fails. However, the Chair has the option of voting to resolve a tied vote.

**4.09.2** Every question submitted to any meeting of the directors shall be decided by a majority of votes given on a show of hands, unless otherwise specifically provided by statute. In case of an equality of votes, the matter fails.

**4.09.3** The Chair shall be entitled to vote in all cases except where prohibited by law or other resolution of the "Board".

**4.09.4** The Chair may request "the Board" for a deferral of any matters, even if tabled as a motion, which the Chair may deem to be of a serious nature to a meeting where a larger majority of members is in attendance.

**4.09.5** At any meeting, unless a poll is demanded, a declaration by the Chair that a resolution has been carried, or carried unanimously or by a particular majority, or lost or not carried by a particular majority shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour or against the motion.

**4.09.6** Subject matters involving a real or potential conflict of interest must be disclosed by Board members (directors) and, in the event of a motion, such member(s) shall be restricted from voting on the matter.

**4.09.7** A Board member may give his vote by proxy to any other member of the Board; however, such proxy must be put into writing by the Board member granting the proxy and presented immediately prior to the vote by the attending Board members to whom the proxy is given.

#### **4.10 Notice**

**4.10.1** The Secretary shall ensure that the agenda for each regular meeting of “the Board” and each regular meeting of a committee shall be e-mailed or delivered to each member of the Board not less than seventy-two (72) hours before the hour appointed for the holding of such meeting.

**4.10.2** The Secretary shall deliver notice of each special meeting of “the Board” and each special meeting of a committee to each member of “the Board” by e-mail or leave notice at his/her residence or place of business at least forty-eight (48) hours before the time set for such special meeting and shall in the notice specify the business to be transacted. An agenda constitutes such notice.

### **5. Officers**

#### **5.01 Officers**

“The Board” shall elect/appoint board member(s) to occupy the positions of Chair and Vice-Chair, each position for a one-year term, unless the duration is extended by a vote of the "Board". An individual may be designated to hold two or more officer positions.

The Treasurer of the Halton Catholic District School Board shall act as Treasurer of the Board of Directors of “The Foundation”. This Treasurer is a non-voting member of the “Board”.

“The Board” shall select and appoint an individual to the position of Executive Director to occupy such position until the appointment is rescinded by “the Board” or a new person is designated by “the Board” for this position. The Executive Director shall serve as the Secretary to the “Board”. The Executive Director is a non-voting member of the “Board”.

“The Board” may appoint such other officers and agents as it shall deem necessary, who shall have such authority and shall perform such duties as may from time to time be prescribed by the Board.

#### **5.02 Delegation of Duties of Officers**

In the case of absence or inability to act of the Chair, Vice-Chair or any other officer of the Foundation, or for any other reason that the directors may deem sufficient, the directors may delegate all or any of the powers of such officer to any other officer or to any director for the time being.

## **5.03 Duties of the Officers**

### **5.03.1 The Chair**

- i. The Chair shall preside over the meetings of the Board of Directors, and assist both the Committees of the Board and the Board of Directors itself to reach consensus on fundamental policy issues of concern to the Foundation.
- ii. It shall be the duty of the Chair, with respect to any meetings over which he or she presides, to:
  - a) preserve order and decide all questions of order, subject to appeal; and without argument or comment, state the rule applicable to any point of order if called upon to do so;
  - b) receive and submit to a vote all motions presented by the Members of Board of Directors, which do not contravene the rules and regulations of the Board of Directors;
  - c) announce the results of the vote on any motions so presented;
  - d) decline to put to a vote motions which infringe upon the rules of procedure, or which are beyond the jurisdiction of Board of Directors;
  - e) enforce on all occasions the observance of order and decorum among the Members;
  - f) assign directors to committee membership;
  - g) authenticate by his/her signature, when necessary, all documents of the Board of Directors;
  - h) adjourn the meeting when business is concluded;
  - i) represent and support the Board of Directors, declaring its will and implicitly obeying its decisions in all things.

### **5.03.2 Vice-Chair**

The Vice-Chair shall be vested with all the powers and shall perform all the duties of the Chair in the absence or inability or refusal to act of the Chair. The Vice-Chair shall sign such contracts, documents or instruments in writing as require his signature and shall have such other powers and duties as may from time to time be assigned to him by the "Board".

### **5.03.3 Secretary**

The Executive Director shall serve as Secretary to the "Board". The Secretary shall ensure that proper minutes and records are kept of all meetings of the directors and members, shall have charge of the minute books of the Foundation and the documents and registers referred to in the *Corporations Act*, R.S.O. The Secretary shall have such other powers and duties as may from time to time be assigned to him or her by "the Board" or as are incident to this office.

### **5.03.4 Treasurer**

Subject to the provisions of any resolution of "the Board", the Treasurer shall have the care and custody of all the funds and securities of the Foundation and shall arrange for deposit of the same in the name of the Foundation in such bank or banks or with such depository or depositories as "the Board" may direct.

#### **5.04 Vacancies**

If the office of the Chair or Vice-Chair shall be or become vacant by reason of death, resignation, or disqualification or otherwise, the directors may elect or appoint an officer to fill such vacancy until the next annual meeting.

#### **5.05 Appointment of Executive Director**

The members of the Board of Directors shall, on such terms and conditions as they see fit, retain the services of an Executive Director, who shall be responsible for the coordination of the affairs of the Foundation.

#### **5.06 Duties of Executive Director**

- (1) The Executive Director shall sign such contracts, documents or instruments in writing as require a signature, and as are delegated by the "Board". The Executive Director shall be the chief administrative officer of the Foundation and shall be responsible to "the Board" for the management of the Foundation and for carrying out policies established by "the Board" from time to time. In all matters affecting the Foundation, the Executive Director shall be deemed to be an agent of the Foundation acting under the authority and at the express intention and express direction of the Board or any committee thereof, as the case may be.
- (2) In addition to any other authority or duties conferred by direction of the Board, the Executive Director shall exercise general and active supervision over:
  - (a) The preparation and submission of such reports and statements as "the Board" may, from time to time, direct to be prepared and submitted to the "Board", to any Director or officer of the Foundation, or to any meeting of the members of the Foundation;
  - (b) If requested by the "Board", the preparation of an annual budget for the Foundation, showing expected revenues and expenditures; and,
  - (c) The safe-keeping of all records and assets of the Foundation
  - (d) The selection, appointment and supervision of volunteers as required to carry out the functions of "The Foundation".

### **6. Committees**

**6.01** Standing Committees are permanent committees appointed by the "Board". There shall be three (3) Standing Committees:

- (1) Fundraising Committee to generate the resources needed to carry out the objectives and work of "The Foundation" This committee takes on a leadership role for the planning and coordinating of revenue-generating strategies. It is responsible for seeking out donors and sponsors, organizing fund raising events, applying for grants and for promoting donations and gifts to "The Foundation".

This committee shall consist of four (4) members of the Board of Directors, plus additional community members as determined. A member of the Board of Directors shall serve as Chair of the committee.

- (2) **Allocation Committee** to review the funding requests made to “the Board” and to select and make appropriate recommendations to “the Board” for granting the approval of such requests and identifying the source of funds. It will advise “the Board” on policies and procedures for the allocation of monies and grants. It will monitor the delivery of implementation strategies and make recommendations to “the Board” regarding future amendments to the approved plan of action. It will assess all applications for funds, including any requests for occasional or ongoing funding, and allocate approved funds to successful applicants.

This committee shall consist of four (4) members of the Board of Directors, plus additional community members as determined. A member of the Board of Directors shall serve as Chair of the committee.

- (3) **Governance and Nomination Committee** to monitor "Board" governance structure and processes recommend By-Laws and governance policies and ensure succession planning and nominations for Board membership. The Governance and Nomination Committee ensures the constant vigor and effectiveness of the full Board and the work it performs for the Foundation.

This committee shall consist of four (4) members of the Board of Directors, plus additional community members as determined. A member of the Board of Directors shall serve as Chair of the committee.

Standing Committee Terms of Reference shall be defined by board approved policies which are reviewed and amended to define the duties, composition and responsibilities as needed and from time to time.

#### **6.02 Ad Hoc Committees**

“The Board” may appoint ad hoc committees on an “as needed” basis with very clear terms of reference and deadlines for doing their job, after which they dissolve automatically.

### **7. Indemnities to Directors, Officers and Others**

Every director or officer of the Foundation or any other person who has undertaken or is about to undertake any liability on behalf of the Foundation and his or her heirs, executors and administrators, and estate and effects, respectively, shall from time to time and at all times, be indemnified and saved harmless out of the funds of the Foundation, from and against:

- (a) all costs, charges and expenses whatsoever which such director, officer or other person sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him, for or in respect of any act, deed, matter or thing whatsoever made, done or permitted by him, in or about the execution of the duties of his office; and,
- (b) all other costs, charges and expenses that he or she sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his or her own willful neglect or willful default.
- (c) the acquisition of an appropriate Directors Insurance policy shall be provided in pursuance of this indemnity requirement.

## **8. For the Protection of Directors and Officers**

- (a) No director or officer of the board for the time being of the Foundation shall be liable for the acts, receipts, neglects or defaults of any other director or officer or employee or for joining in any receipt or for any loss, damage or expense happening to the Foundation through the insufficiency or deficiency of title to any property acquired by order of the Board or for or on behalf of the Foundation or for the insufficiency or deficiency of any security in or upon which any of the moneys of or belonging to the Foundation shall be placed out or invested or for any loss or damage arising from the bankruptcy, insolvency or tortuous act of any person, firm or company with whom or which any moneys, securities or effects shall be lodged or deposited or for any other loss, damage or misfortune whatever which may happen in the execution of the duties of such director's or officer's respective office or trust or in relation thereto unless the same shall happen by or through such director's or officer's own wrongful and willful act or through his own wrongful and willful act or through his own wrongful and willful neglect or willful default.
- (b) The directors for the time being of the Foundation shall not be under any duty or responsibility in respect of any contract, act or transaction whether or not made, done or entered into in the name or on behalf of the Foundation, except such as shall have been submitted to and authorized or approved by the Board. If any director or officer of the Foundation shall be employed by or shall perform services for the Foundation otherwise than as a director or officer or shall be a member of a firm or a shareholder, director or officer of a company which is employed by or performs services for the Foundation, the fact of his being a director or officer of the Foundation, shall not disentitle such director or office or such firm or company, as the case may be, from receiving proper remuneration for such services.

## **9. Enactment, Repeal and Amendment of By-Laws**

By-Laws of the Foundation may be enacted, and the By-laws of the Foundation repealed or amended, by vote of a majority of "the Board" at a meeting of "the Board". An Annual Review of the By-Laws shall be the responsibility of the Governance and Nomination Committee.

## **10. Auditors**

"The Board" shall at each annual meeting appoint an auditor to audit the accounts of the Foundation and fix the remuneration of the auditor.

## **11. Notice**

### **11.01 Manner of Service**

Unless otherwise provided for herein, all notices or other communications required or permitted to be given under this by-law shall be sufficiently given if in writing by registered mail, personal delivery, by means of electronic facsimile transmission (fax) or electronic mail (e-mail) addressed to such party at such address as the party to whom notice is to be given may have designated or the last known address of the individual, and such notice or other communication shall be deemed to have been received on the first business day subsequent to the delivery by hand, by fax, by e-mail or, if mailed, on the third business day after mailing.

### **11.02 Proof of Service**

A certificate of the Chair, Vice-Chair, Secretary, or Treasurer or of any other officer of the Foundation in office at the time of the making of the certificate as to facts in relation to the mailing or delivery of any notice to any member, director, officer or auditor or publication of any notice shall be conclusive evidence thereof and shall be binding on every member, director, officer or auditor of the Foundation, as the case may be.

## **12. Payments, Cheques, Drafts, Notes, etc.**

**12.01** All cheques, drafts or orders for the payment of money and all notes and acceptances and bills of exchange shall be signed by such officer or officers or person or persons, whether or not officers of the Foundation and in such manner as the Board may from time to time designate by resolution.

**12.02** The Executive Director is authorized, without first having to seek board approval or co-signer, to sign all cheques or authorize the payment of monies not exceeding increments of \$2,000.00 that are incidental to the operation of "The Foundation".

**12.03** All cheques or payment of monies exceeding increments of \$2,000.00 shall require signatures by two (2) authorized persons as designated by the "Board".

## **13. Execution of Contracts, etc.**

All contracts, documents, or instruments in writing requiring the signature of the Foundation shall be signed by such officer or officers or person or persons, whether or not officers of the Foundation and in such manner as "the Board" may from time to time designate by resolution.

## **14. Financial Year**

"The Board" may by resolution fix the financial year-end of the "The Foundation" and "the Board" may from time to time by resolution change the financial year-end of the Foundation.

## **15. Interpretation**

In all By-laws and special resolutions of the Foundation, the singular shall include the plural and the plural the singular; the word "person" shall include firms and corporations, and the masculine shall include the feminine and the neuter. Whenever reference is made in any By-law or any special resolution of the Foundation to any statute or section thereof, such reference shall be deemed to extend and apply to any amendment or re-enactment of such statute or section thereof, as the case may be.

## **16. Directors and the Board**

The Directors of the Board are the persons as described in section 3.0. The powers of the Board are vested in the Board as a whole, and not in the individual directors. The individual director or officer must avoid inappropriately bind the Foundation and should not be seen to be acting by virtue of deemed authority.

## **16.01 Duties of Directors**

A director's duty can be formally stated in two parts:

- (a) A director must act honestly and in good faith and in the best interests of "The Foundation"; and
- (b) A director must exercise the care, diligence and skill that a normally prudent person would exercise in comparable circumstances.
- (c) The officers of "The Foundation" (Chair, Secretary, Treasurer, etc.) have the same duties and liabilities as directors. This applies whether or not the officer is also a director.

### **16.01.1 Acting in Good Faith**

A director owes "The Foundation" the duties of loyalty, honesty and good faith. These are fiduciary duties. The personal interests of any director must not conflict with "The Foundation". The test is a subjective one, and directors must act in what they consider is in the interests of the Foundation, not necessarily what a court might consider to be those interests.

In short, directors:

- i. Must not take opportunities for themselves that are available to "The Foundation".
- ii. Shall not allow their personal interests to conflict with the interests of "The Foundation".
- iii. Shall declare their interests in contracts with "The Foundation".
- iv. Shall refrain from voting (and probably even taking part in the discussion) on resolutions where they have a personal interest.
- v. Have an obligation to keep "The Foundation" information confidential.

### **16.01.2 Duty to Manage**

Directors, as a Board of Directors, manage the business and affairs of the Foundation.

The Board may delegate duties to officers, example Executive Director, but the Board cannot give up its general duty to manage. In other words, directors should not abdicate their duty through excess or irresponsible delegation.

## **16.02 Standards of Performance**

Directors must exercise the "care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances." This standard of conduct requires directors to take all reasonable care applicable to the circumstances::

1. Directors should regularly attend committee and board meetings.
2. A duty to become informed before acting.

### **16.03 Directors' Liability**

General tort principles can make directors personally liable if they have intentionally or negligently caused harm to “The Foundation” or to third parties.

Directors, who act in good faith and within the scope of their authority, will not be held liable for the improper acts of the Foundation.

#### **16.03.1 Disclosure of Personal Interests**

As fiduciaries, the director may not put themselves in a position where their interests and duties conflict with the duties that they owe to the Foundation.

Directors must disclose any personal interest they may have in Foundation dealings at the first opportunity in writing. Alternatively, the director can disclose the interest orally and request the nature and extent of the interest to be entered in the minutes of a meeting.

A director with a material interest must not vote on any resolution to approve the contact.

#### **16.03.2 Indemnity and Insurance**

##### **(1) Indemnity**

“The Foundation” shall indemnify current or former directors or officers against costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by the director in respect to any civil, criminal or administrative action if:

- i. the director acted honestly and in good faith with a view to the best interests of the Foundation; and
- ii. in the case of a criminal or administrative action that is enforced by a fine, the director had reasonable grounds for believing his or her conduct was lawful.

##### **(2) Insurance**

“The Foundation” may purchase and maintain insurance for the benefit of current and former directors against liability incurred in the capacity as a director or officer of the Foundation. Of course, the general exception still applies. The director must act honestly and in good faith and in the best interests of the Foundation, otherwise the insurance will not cover the problem

#### **16.03.3 Risk Management**

Directors shall ensure that “the Foundations” resources are protected and that the necessary steps and processes are put in place to mitigate potential risk.