



BY-LAW NO. 510-2024

**A BY-LAW RESPECTING
CONFLICTS OF INTEREST OF POLICE SERVICE MEMEBRS**

1. PREAMBLE

- 1.1 WHEREAS subsection 37 (1) of the *Community Safety and Policing Act, 2019, S.O. 2019, c. 1, Sched. 1*, (“CSPA”) provides that a Board shall provide adequate and effective policing in the area for which it has policing responsibility as required by Section 10 of the CSPA;
- 1.2 AND WHEREAS subsection 38 (2) of the CSPA provides that a Police Service Board may establish policies respecting matters related to the Police Service or the provision of policing;
- 1.3 AND WHEREAS subsection 89 (1) of the CSPA requires that a Member shall not engage in any secondary activity which places them in a conflict of interest;
- 1.4 AND WHERAS Section 220 of the CSPA requires that certain Members be removed from Police Association membership if their continued membership would result in a conflict of interest in collective bargaining matters;
- 1.5 AND WHEREAS subsection 11 (1) of O. Reg. 401/23: Conflicts of Interest requires a Chief of Police to establish written procedures respecting actual conflicts of interest and personal conflicts in the provision of policing functions;
- 1.6 AND WHEREAS subsection 12 (1) of the said O. Reg 401/23: Conflicts of Interest and clause 38 (1) (g) of the CSPA require that the Board establish a policy respecting the avoidance of actual institutional conflicts and personal conflicts in the provision of policing functions;
- 1.7 AND WHEREAS the said O. Reg 401/23: Conflicts of Interest prescribes definitions of conflicts of interest, investigations, including referral of investigations to other police services, impartiality of investigations, reporting and actions to be taken;
- 1.8 AND WHEREAS the Board deems it expedient to enact this By-law to ensure the avoidance of actual institutional conflicts and personal conflicts in the provision of policing functions.

NOW THEREFORE THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICE BOARD ENACTS AS FOLLOWS:

2. DEFINITIONS

- 2.1 “Act” or “CSPA” means the *Community Safety and Policing Act, 2019, S.O. 2019, c. 1, Sched. 1*, and amendments thereto;

- 2.2 “*Actual Institutional Conflict*” has the same meaning as set out in Section 1 of O. Reg. 401/23: Conflicts of Interest;
- 2.3 “*Board*” means the Regional Municipality of Niagara Police Service Board;
- 2.4 “*Chief*” means the Chief of the Niagara Regional Police Service;
- 2.5 “*Member*” means a member of the Niagara Regional Police Service;
- 2.6 “*O. Reg. 401/23*” means Ontario Regulation 401/23: Conflicts of Interest;
- 2.7 “*Personal Conflict*” has the same meaning as set out in section 1 of O. Reg. 410/23;
- 2.8 “*Service*” means the Niagara Regional Police Service;
- 2.9 “*SOA*” means the Niagara Regional Police Senior Officers’ Association.

3 BOARD POLICY

- 3.1 The Board recognizes and adheres to the principle that fair, open, impartial and thorough delivery of policing services is a cornerstone to establishing and promoting trust in the Service and the Board, and that it is imperative that in the delivery of those policing services, Members cannot be constrained in any way by conflicts of interest. It is therefore the policy of this Board that there must be strict adherence to the provisions of O. Reg. 401/23.

4 DIRECTIONS TO CHIEF

4.1 PROCEDURES

- 4.1.1 The Chief of Police shall establish written procedures respecting actual institutional conflicts and personal conflicts in the provision of policing functions by the Service. The procedures shall:
- (a) provide for steps that must be taken to avoid or address potential institutional conflicts, actual institutional conflicts and personal conflicts;
 - (b) identify a supervisor to whom a Member of the Service is required to report potential institutional conflicts, actual institutional conflicts and personal conflicts and, if the matter to be reported relates to the Member’s own supervisor, an alternative supervisor;
 - (c) identify the Members of the Service who are authorized to determine whether a personal conflict has arisen or is likely to arise;
 - (d) ensure the impartiality of investigations by the Service under this Regulation; and
 - (e) address how the Service will conduct investigations referred to it by the Chief of Police of another police service. If the Chief of Police is referred a conflict of interest investigation by another police service, the Chief shall either (1) cause the matter to be investigated in accordance with the applicable conflict procedure; or (2) take steps to ensure that the matter is referred to a different police service to conduct the investigation.

4.2 PERSONAL CONFLICTS

- 4.2.1 If it is determined, in accordance with the conflict procedures, that a personal conflict respecting a Member of the Service has arisen or is likely to arise with respect to a policing function that the Member is providing, the Chief of Police shall,
- (a) require a different Member of the Police Service to provide the policing function or refer the matter to the Chief of Police of a different Police Service; or
 - (b) if the Chief of Police or Deputy Chief of Police is the Member of the Police Service in respect of whom a personal conflict has arisen or is likely to arise, refer the matter to the Chief of Police of a different Police Service.
- 4.2.2 The Chief of Police shall record the steps the Chief of Police takes under this section, in the form approved by the Minister.
- 4.2.3 If the Chief of Police or Deputy Chief of Police is the Member of the Police Service in respect of whom a personal conflict has arisen or is likely to arise, the record shall include either a statement that the Chief of Police complied with the conflict procedures and this policy, or a statement that the Chief of Police did not comply and an explanation for the non-compliance. The record shall be submitted by the Chief of Police to the Inspector General and the Board.

4.3 INSTITUTIONAL CONFLICTS

- 4.3.1 If the Chief of Police determines that a potential institutional conflict respecting a Member of the Service has arisen or is likely to arise, the Chief of Police shall determine whether an informed and reasonable person would believe that a Member of the Service who must take action or make a decision in the situation could do so impartially. In making this determination, the Chief of Police shall consider all relevant factors, including:
- (a) whether any of the Members of the Service who are required to act or make a decision are likely to be in a reporting relationship to or know a person who is or would be under investigation in respect of the criminal conduct;
 - (b) whether the Service has procedures for consulting with the Crown Attorney regarding the conduct of the investigation of the criminal conduct, and has undertaken to consult with the Crown on the investigation; and
 - (c) any other relevant factor, including the importance of the perception of fairness and impartiality in the course of all investigations to maintaining the community's trust.
- 4.3.2 The Chief of Police is not required to make the determination above with respect to the following:
- (a) an incident reported to the SIU Director under Section 16 of the Special Investigations Unit Act, 2019 or the SIU Director causes the incident to be investigated under Section 15 of that Act; or
 - (b) the potential institutional conflict has arisen or is likely to arise in an area for which the Board does not have policing responsibility, and is the subject of an investigation by a different police service.
- 4.3.3 If the Chief of Police determines that an actual institutional conflict of interest exists, the Chief of Police shall refer the investigation to the Chief of Police of a different police service.

- 4.3.4 Where the investigation is referred to or continued by the Chief of Police of a different police service, the Chief of Police shall continue to take all steps necessary to ensure that an effective investigation is conducted, until the assumption of responsibility for the investigation by the Chief of Police of the other police service, if applicable.
- 4.3.5 If the Chief of Police determines that a potential institutional conflict is not an actual institutional conflict and does not meet the prescribed conditions under Section 7 (2) of Ontario Regulation 401/23: Conflicts of Interest, the Chief shall either:
- (a) cause the matter to be investigated in accordance with the Service's conflict procedures; or,
 - (b) refer the matter to the Chief of Police of a different police service for investigation.

In exercising their discretion to retain or refer an investigation, the Chief of Police shall have regard to the costs of an external investigation and whether such costs are merited in all of the circumstances. Should the Chief of Police retain the matter for investigation, notification shall be provided to the Inspector General in the prescribed form including a summary of the steps taken under the applicable conflict procedure.

- 4.3.6 If the Chief of Police or a Deputy Chief of Police is the Member of the Police Service in respect of whom the actual institutional conflict or potential institutional conflict has arisen or is likely to arise, the Chief of Police shall notify the Inspector General, in the form approved by the Minister, and shall notify the Board, in writing. The Chief of Police shall also record all the steps the Chief of Police takes in regards to actual institutional conflicts or potential institutional conflicts that qualify under this section.
- 4.3.7 The Chief of Police shall inform the Board of every actual institutional conflict and of every potential institutional conflict that is determined to not be an actual institutional conflict. If the Chief of Police retains an investigation that is determined to not be an institutional conflict, the Chief of Police shall explain the rationale for retaining the investigation to the Board and the Inspector General.

5. REPORTS

- 5.1 The Chief shall report to the Board as required under Sections 4.2.3, 4.3.6 and 4.3.7 of this By-law.
- 5.2 The Chief shall provide an annual report to the Board in January of each year, such report to include the following information:
- 5.2.1 the number of conflict of interest investigations undertaken by the Service during the preceding year;
 - 5.2.2 the number of conflict of interest investigations referred to other police services during the preceding year;
 - 5.2.3 the number of investigations resulting in findings of conflicts of interest during the preceding year, and a brief explanation of the nature of the conflicts so determined; and
 - 5.2.4 the action taken in response to findings of conflicts of interest.

6. IMPLEMENTATION

- 6.1 Any By-laws, sections of By-laws and policies of the Board inconsistent with the provisions of this By-law are hereby repealed effective on the date of passage of this By-law.
- 6.2 This By-law shall come into force on the date of its passage.
- 6.3 The Chief shall implement this By-law, where applicable, through General Order.

ENACTED AND PASSED this 23rd day of May, 2024.

THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICE BOARD



Jen Lawson, Chair



Deb Reid, Executive Director