



Investigation of the Peel District School Board

Submitted by Arleen Huggins

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I. Mandate

On April 27, 2020, I was appointed by the Minister of Education to conduct an investigation of the Peel District School Board ("PDSB") to assess its compliance with the Minister's binding Directions issued on March 13, 2020 in response to the PDSB Review Report released on the same date (the "Report"). The Minister expressed concerns with respect to the PDSB's ability to provide good governance and fulfill his binding Directions, specifically Directions 1, 6, 7, 8, 12 and 16. I have been appointed to investigate the PDSB's compliance or potential non-compliance with the binding Directions and provide a written report on its capacity to meet the Directions.

Direction 1 requires all members of the Board of Trustees (the "Board") to retain a Mediator or conflict resolution expert to "identify, address and resolve dysfunction between and among members of the Board and between members of the Board and the Director of Education and Associate Directors." Compliance with this Direction requires all 12 Trustees, as well as the Director and the three Associate Directors, to engage in mediation and demonstrate the collective capacity to govern effectively, provide effective leadership and oversee the PDSB's compliance with other Directions.

Direction 6 requires the Board to create and implement a mandatory Learning Plan for Trustees that addresses their obligations under legislation including the *Canadian Charter of Rights and Freedoms* and the *Ontario Human Rights Code*. The mandatory Learning Plan is also required to cover the PDSB's By-laws, appropriate use of the PDSB's Trustee Code of Conduct, and other key policies concerning conflict of interest, equity and inclusive education, and human rights.

Direction 7 requires the Board to review the composition of its standing and ad hoc committees to ensure that the racial diversity of the Board is adequately represented on those committees.

Direction 8 requires the Board to retain an expert to conduct a robust and transparent appraisal of the Director of Education's performance relating to addressing anti-Black racism, Islamophobia, and other pressing areas of equity, as well as board governance and human

resources practices. The appraisal must provide for the confidential input of staff, Trustees and representatives of the PDSB community.

Direction 12 requires the Board to ensure the independence of the Human Rights Commissioner's Office (HRCO) within the organizational structure of the Board and to safeguard the neutrality of the HRCO.

Direction 16 requires the Board to develop an Anti-Racism Policy in consultation with the PDSB community and the Ontario Human Rights Commission, and to ensure that the Policy is applicable to students and staff.

Each of these Directions has associated timelines, some of which have already past. I provide observations on the PDSB's responses to these Directions to date, as well as their capacity to comply with future timelines set out in the Minister's Directions.

The remainder of the 21 Directions issued on March 13, 2020 largely fall under the purview of the Director of Education. The PDSB has developed a plan to respond to the 27 Directions, distinguishing between governance-related Directions and Directions related to operations. Responsibility for the governance-focused Directions has been assumed by the Board, and the Director of Education has assumed responsibility for the operational Directions. I offer my observations on the capacity of the Board and the Director of Education to comply with these Directions.

During the course of this investigation, I interviewed the Chair and Vice Chair of the Board, as well as the Director of Education and the three Associate Directors. Given that this investigation was triggered in part by the Minister's concern over the rescindment of agreement to participate in mediation by two Trustees, I have also interviewed those two individuals as well as the Mediator retained by the Board. In the context of the scope of my mandate and the timelines under which this investigation was to be conducted, I determined that these were the key individuals who were directly relevant to the investigation.

My investigation was also informed by documents I requested from the individuals I interviewed. Those documents included the Mediator's Interim Report submitted to the Minister on May 14, 2020, agendas and minutes from relevant Board and senior leadership meetings, email communications between Trustees and between Trustees and senior staff and communications between community members and the Board.

II. Observations

Directions

Direction 1

Direction 1 requires the Board to retain a Mediator to identify and resolve both the dysfunction on the Board and the dysfunction in the Director's Office, which is comprised of the Director of Education and three Associate Directors, as identified in the Report. By March 26, 2020, the PDSB was required to submit a letter of commitment from each Trustee to participate fully in mediation. The Board was also required to ensure that the Directors and Associate Directors participate in the mediation. While the requirement in respect to the Board commitment was initially met, two Trustees subsequently rescinded their agreement prior to the commencement of the mediation; one Trustee withdrew on April 11th, the other Trustee on April 15th. Furthermore, while all three Associate Directors initially agreed to engage in the mediation, on April 16, 2020, the Associate Director, Instructional and Equity Support Services ("AD-Equity") also withdrew; again prior to the commencement thereof.

While all three agreed to speak with the Mediator in one on one meetings with her, to explain the reasons for their withdrawal, each subsequently confirmed during their Investigation interviews that none of them considered their meetings with the Mediator to constitute engaging in the mediation. In that regard, the AD-Equity specifically indicated on the Agreement to Mediate document that she did not agree to any mediation between the parties at this time. One of the two Trustees crossed out reference to the agreement to proceed with the mediation in the Agreement to Mediate and the second Trustee did not return the Agreement to Mediate at all.

It is obvious that the non-participation of two Trustees in mediation constitutes non-compliance with Direction 1. However, what is particularly germane to the question of the Board's ability to provide good governance are the reasons why the two Trustees withdrew their agreement to mediation. One Trustee based her decision on her view that there was "insufficient appetite" at the Board to address the issues raised in the Report, including engaging with the PDSB's Black communities and addressing anti-Black racism. The second Trustee cited anti-Black racism on the Board, silencing of discussion and debate, and deep divisions that have resulted in a 10 – 2 Trustee split in respect to many issues before the Board. Both Trustees stated that repeated instances of the Chair and Vice Chair preventing discussion and questions relevant to the Report and the Directions during public and in-committee meetings of the Board were reasons underlying their decisions to withdraw from mediation.

It is also relevant that the two Trustees who withdrew from mediation are the same two Trustees who have been vocal advocates for equity and human rights issues, and who have been engaging with the PDSB's Black and other equity-seeking communities.

I note that neither the Chair nor Vice Chair attempted to engage in discussion with either of the two Trustees to ascertain their reasons for withdrawing, or to encourage them to reconsider. The Chair had in fact told the Ministry and the Mediator he had not expected either Trustee to participate and advised me that he was not surprised when they withdrew from the process. I also note that one Trustee did not directly inform the Chair or Vice Chair of her decision to withdraw from mediation, but rather informed the Minister and the Mediator. The other Trustee informed the Chair in writing seven days after she notified the Minister. This lack of effort on the part of the leaders of the Board to communicate with two of its members - particularly in the face of non-compliance with the binding Direction - as well as the lack of direct communication between Board members and the Chair, confirms the continuance of significant dysfunction on the Board.

Both the Chair and the Vice-Chair gave as their reasons for not making these inquiries that they relied upon the Mediator to do so. However, neither made any attempt to contact the Mediator to find out the reasons for the two Trustees' withdrawal, stating they would wait until the

Mediator delivered her Interim Report. As well, from their evidence, it is clear that they had already made assumptions that the two Trustees' reasons for withdrawal related to individual and personal destructive agendas.

All three Associate Directors indicated their view that there was still great tension and deep dysfunction on the Board; identifying the chasm between the 10 Trustees and the 2 Trustees. As to the perceived source of the dysfunction; 10 Trustees are trying to streamline Board meetings and in doing so are failing to answer or address or are deflecting what the Associate Directors saw to be appropriate issues relating to the Report and Directions being brought forward by, in particular, one of the 2 Trustees, who they see as "passionate about the work", to the point that the 2 Trustees have "found themselves to be disenfranchised". The observations of the Associate Directors were that the two Trustees are trying to respond to community concerns and ask a lot of questions. They in turn receive push back from the other 10 Trustees, and governance issues become muddy and "battle lines are drawn". There is then escalation on both sides. One Associate Director described the situation as "like a school yard-push and punch and now a fight going on". The Associate Directors all raised doubts that the Board could work together as a team as there is hurt, harm and no trust between them. They were of the view that the Board will continue to struggle to work together. These observations are echoed in the Mediator's Interim Report.

As stated above, Direction 1 also required that the Director of Education and the three Associate Directors engage in mediation to identify, address and resolve dysfunction in the Director's Office, and between the Director's Office and the Board. The withdrawal of the AD-Equity therefore also constitutes further non-compliance with Direction 1. While the AD-Equity stated that her reason for withdrawal was in part due to recent occurrences in respect of her outstanding human rights application at the Ontario Human Rights Tribunal naming the Director of Education and the Board as respondents, she also stated her belief that mediation would have simply been "an exercise" with little prospect of success as the real problem is a fundamental disagreement between herself and the Director about anti-Black racism and how it is being addressed in the Director's office and feeds into the Trustees, schools and teachers.

On April 16th, the Director was informed by the Mediator that the AD-Equity was not participating in mediation. Although the Mediator advised the Director that she was going to follow up with the AD-Equity, the Director had no subsequent conversations with the Mediator regarding the reasons why the AD-Equity was not participating, nor did he attempt to discuss this directly with the AD-Equity. I asked the Chair if he had discussions with the Director as to why the AD-Equity was not involved in the mandatory mediation. He replied that he did not have that discussion, that the “why” was irrelevant, and he was leaving it to the Mediator. The Vice Chair stated that there was “nothing going on that should have caused her to withdraw” from mediation. He further indicated that after the April 15th meeting, he was “shocked and surprised” to learn that there was “stuff going on there”.

The fractured relationship between the Director and the Associate Director responsible for equity is especially problematic given the work that the PDSB is required to undertake to fulfill the Minister’s Directions. It involves the implementation of transformative initiatives to dismantle systemic anti-Black racism and systemic inequities. It is also significant that this circumstance was viewed as “irrelevant” by the Chair of the Board and that the Vice Chair stated that he was unaware of the serious and ongoing tension and dysfunction in the Director’s Office. It is particularly troubling given the clear findings of the Report released almost two months ago. It is clearly evident that both the Chair and the Vice-Chair have taken sides in the dispute.

It is also interesting to note that neither the Chair or Vice Chair perceived any issues arising from the ongoing tension and dysfunction in the Director’s office impacting upon the work to be done to address the Report findings and to fully and adequately comply with the Directives; again, many of which are operational and are to be addressed by the Director’s office. Both repeated the mantra of “the Directions will get done” but provided no clear direction or plan as to how, given the absence since April 13, 2020 of the AD-Equity, and the non-hiring to date of the Superintendent Equity or Outreach Officer and the lack of a new, robust Equity office; all as mandated by Direction 10.

All of the Associate Directors maintained that their own relationships among each other were good and that they all work well together. However, all three Associate Directors acknowledge

the significant conflict between the AD-Equity and Director, that the tension is palpable and that it has an impact on the team and the senior leaders as the situation has become polarizing as between the Superintendents. One stated that there is "subtle undermining that will impact directives".

The impact upon the Directions due to this dysfunction has also been illustrated in relation to the posting for the Superintendent Equity position. The Director maintained that the relationship between he and the AD-Equity was "professional", and that their interactions are good and that there were no outstanding matters in terms of their day to day relationship, including while the AD-Equity has been on leave. He further stated that when the AD-Equity has offered information or has requested information while on leave, he has accepted and accommodated her. However, when the AD-Equity specifically requested of the Director by email dated April 24, 2020 to be provided with a draft of the posting for the Superintendent Equity role, which is to report directly to the AD-Equity, she was advised by the Director that a link to the posting would be provided once it was completed. The AD-Equity therefore first saw the posting for the position of "Superintendent Community Services" on May 7, 2020 when it was posted publicly on the PDSB website and other media.

Further to Direction 1, I note that the Board complied with the April 17th timeline to confirm with the Minister that a Mediator was retained. I am, however, concerned with the process that the Board undertook to retain the Mediator. The Chair and Vice Chair developed interview questions and, along with the Director, interviewed prospective mediators from a short list obtained from the Ministry without any involvement of the other Trustees. A report was then presented to the Board on April 24, 2020 with a recommendation to hire the Mediator. Prior to that report, no other Trustee was involved in discussions on the qualifications, experience, evaluation criteria, or hiring process for the Mediator.

The Board's approach to this particular Direction – work led by the Chair and Vice Chair to the exclusion of the other 10 Trustees – is indicative of the Board's approach in responding to the other Directions, and has been one source of the friction between the two Trustees and the rest of the Board. This dynamic in the face of the transformational work required of the Board relating

to issues of anti-Black racism, community engagement, and systemic change is untenable. This approach is also contributing to the ongoing dysfunction on the Board.

Direction 6

Direction 6 requires the Board to develop and implement a mandatory Learning Plan for Trustees covering several topics, including their responsibilities and obligations under human rights legislation, PDSB By-laws and policies, the appropriate use of the Trustee Code of Conduct, and equity and inclusive education and human rights training. While the Board's first deliverable under this Direction – the Learning Plan - is due June 1, I have concerns about the Board's ability to comply with this directive in a meaningful manner. Although timelines set out in the Board's *Action Plan to meet the Minister's Governance Directives*, created May 4, 2020, - while tight - provide for a June 1st deliverable, the Board appears to be on track to submit a Learning Plan that is little more than a reiteration of the requirements set out in the Direction.

This was essentially acknowledged by the Director, who when asked about the equity and human rights component of the Learning Plan and whose expertise would be informing that portion, conceded that while the Learning Plan will be detailed in respect to governance, as that piece is being completed by the Trustees' legal counsel and the PDSB Parliamentarian, the equity and inclusion and human rights training portion of the Learning Plan "won't be done in depth". He stated that the "meat of it won't be there" as they have no AD-Equity or Superintendent of Equity. He stated that once the Superintendent of Equity is hired, that individual and the AD-Equity will work to align equity and human rights training for the Trustees with training that will be provided across the PDSB. Given that the AD-Equity is on a leave of absence and the hiring process for the Superintendent Equity is in its infancy, with the posting not even scheduled to close until the end of the day on May 22, 2020, the Trustee Learning Plan will not, by the Director's own admission, be an in-depth Learning Plan with respect to the most crucial elements of the Plan.

Also, the Director acknowledged that the first time the Trustees will have any discussion about or input into the Learning Plan, is at the Board Governance Committee meeting scheduled for May 14, 2020, after the Plan is completed.

The Director acknowledged on May 11, 2020, being three days prior to the Plan being scheduled to be tabled at the Governance Committee, that he had not seen the Plan, nor had staff provided any input. He stated that his staff will only provide input if asked by the Parliamentarian.

The Chair of the Board confirmed that the Board has asked their legal counsel to develop the Trustee Learning Plan. When asked about what expertise the legal counsel has to inform the human rights and equity content of the Learning Plan, the Chair was not able to provide any specifics with respect to the legal counsel's experience or expertise in this area. The Chair stated that the Trustee Learning Plan being developed by the Board's legal counsel will not necessarily be delivered by her, and that the Board will "assign" people to deliver the components of the program.

The Chair confirmed that none of the Trustees provided input into the draft Learning Plan that was ultimately tabled at the May 12th Board meeting which was rescheduled from May 26, 2020. Again, the lack of involvement of all Trustees in critical Board initiatives, other than to approve work done by the Chair and Vice Chair, is more than a questionable governance practice; it amounts to missed opportunities to include the diversity of perspectives and expertise - informed by lived experience of a racially diverse Board – to inform policies, practices and initiatives.

I note that the Board submitted their response to Direction 6 on May 13th, two weeks before the June 1, 2020 deadline. I also note that a week prior to this submission, during my interviews with the Chair and Director, neither could tell me who was being considered to deliver the equity and inclusion and human rights part of the training. This suggests that as late as that time, neither the Chair nor the Director had put their minds to that issue notwithstanding how crucial it was.

In the Report in respect of Directive 6 tabled at the May 12th Board meeting, the Chair referenced previous training the Board had received in anti-Black racism in February 2019. That reference was removed only after the characterization of that training session as anti-Black racism training was challenged by one of the two Trustees. In fact, this was not the first time that the Board had attempted to characterize the Board's Overview of the *We Rise Together Action Plan* as anti-Black racism training. In July 2019 a similar statement about the Board purporting to have engaged in

anti-Black racism training was put out in a local newspaper. After the same Trustees raised this statement as a concern at that time, an email from the AD-Equity was sent in July 2019 to the Director, the then Chair of the Board Stan Cameron ("Cameron"), who remains a Board Trustee, and the Trustee who raised her concern, indicating that no anti-Racism training took place as had been stated. The Board then had to retract its statement. This suggests that certain members of the Board, and certainly the Board as a collective, still do not fully understand anti-Black racism.

Direction 7

This Direction requires the Board to review its standing and ad hoc committees to ensure that the racial diversity of the Board is represented on those committees. To comply with this Direction, $\frac{3}{4}$ of the Board was to approve the adequacy of the representation on the committees by June 1st. The Chair confirmed that the Board's legal counsel was tasked with reviewing the existing committees, the process for determining Trustee distribution to those committees, and ensuring that racial diversity is a factor in that process. The Vice Chair was working with legal counsel to meet this Direction.

Again, without the input of the other 10 Trustees, this report was to be tabled at the May 14th Governance Committee meeting for review and recommendation for approval at the Board meeting on May 26th. It is important to note that this report was created without any discussion with the Trustees on self-identification with racialized identities. As one Trustee observed to me, "racialization is determined by power, privilege, environment, space and place of where an individual is situated". When she questioned the Chair and Vice Chair on how the determination was made of which of the Trustees are racialized, it was evident to her that there was a "lack of understanding of this basic concept". She further noted that this lack of understanding on the part of the Director and Trustees is particularly problematic given the work they have to lead developing and implementing an anti-Black racism plan.

The Chair communicated to the Minister on May 13, 2020 that Directive 7 was unanimously approved by the Board at its May 12, 2020 Board Meeting. I have no way of determining whether there is adequate racialization on Board committees as there is no identification of anything

other than names in the Board Community Diversity Report prepared and submitted by the Vice-Chair and provided by the Board to this Directive. Specifically, there is no indication as to how the Board determined the adequacy of racialized representation on the committees, i.e. whether the Trustees self-identified or whether the Vice Chair unilaterally determined whether someone was racialized or not and on what basis he did so. However, as the Directive was unanimously approved, it meets the criteria of $\frac{3}{4}$ confirmation of the Board as required by the Directive and thus, appears to have been complied with.

Direction 8

Direction 8 requires the Board to retain an expert to conduct an appraisal of the Director's performance, specifically including his performance in relation to addressing anti-Black racism, Islamophobia and other equity issues. The Direction requires the Board to confirm by May 18th that the expert had been retained, and by August 31st submit the professional learning goals, performance goals and performance measures to be used in the performance appraisal.

According to the Board's May 4, 2020 *Action Plan to meet the Minister's Governance Directives*, in May 2019 the Board had made a decision to "retain an external expert to provide advice on the appraisal process." However, according to the same document, the Request for Proposal (RFP) was not issued until September 2019. It was not until March 3, 2020 that a recommendation was brought to the Board to approve the expert. That recommendation was approved by the Board on March 10, 2020. It was more than 5 weeks before the approved expert was notified on April 17, 2020.

When asked to explain the 5-week delay in notifying the external expert approved by the Board, the Chair responded that "he had other priorities". I find this position confounding given that the Report clearly stated that the Board's failure to prioritize their Director's performance review as was an indication of the Board's incapability of fulfilling a key legislated responsibility. The Director informed me that while he has met the consultant virtually, he has not been engaged in the process to date and he has not participated in any discussion relating to the performance appraisal process.

Under this Direction, the Board is required to submit by August 31st the professional learning goals, performance goals, and measures that will be used in the Director's performance review. According to the Board's May 4, 2020 *Action Plan to meet the Minister's Governance Directives*, this report will be brought to the Board on an unspecified date in August, although there are currently no August Board meetings scheduled. Further, this work is being undertaken by the Chair and Vice Chair, and there is no evidence that other Trustees are involved in developing the response to this Direction. It is a concern, therefore, that the information on the goals and measures are coming to the Board on an unspecified date in August with the expectation that they will be approved and submitted to the Minister on August 31st. Again, the lack of engagement of all members of the Board in a process that is one of their key responsibilities – Director performance appraisal – is troubling, and the assumption that agreement on a document that has not benefited from input from all Trustees would be approved in a yet-unscheduled meeting scheduled in August is unreasonable.

Direction 12

The Board is required to submit by June 1st a report detailing the steps that have been taken to preserve the independence of the Human Rights Commissioner's Office (HRCO) and to safeguard the neutrality of that office. Also due on June 1st is the updated Policy 51 and Operating Procedure 1 that clearly articulates the arms-length and impartial role of the HRCO.

The absence of Direction 12 in the Board's May 4, 2020 *Action Plan to meet the Minister's Governance Directives*, authored by the Chair and Vice Chair, indicates that it is not considered a governance-related Direction. Indeed, when I asked the Chair about what progress has been made in responding to this Direction - due in less than four weeks - I was told that he did not have any details on this response and suggested that I speak with the Director. When I spoke with the Director, I was told that the HRCO is independent and there were plans to relocate the office to a building away from the Director's Office. The Director also confirmed that he had received a draft of the revised policy and procedure on May 7th, and that both require additional work. As of May 11th, staff were continuing their work on the revisions and the Director therefore had not yet reviewed either the policy or operation procedure.

Regardless of the revisions, I have concerns about the practical effect of the revised policies and procedures given comments made by the Director at a March 26th Board meeting that demonstrate a failure to fully review the Report or a lack of understanding of the Report's findings. In response to a Trustee's question on the status of plans to ensure the independence of the HRCO, the Director responded that "There were suggestions [in the Report] that the Director's Office was involved in cases. In fact, we were not". Contrary to the Director's statement, the Report did not at any point suggest that the Director's Office was involved in HRCO cases. Rather, the Report spoke at some length of the "strong perception that the HRC defends and protects the interests of the Director" and stresses the need for the Board to establish and uphold the independence of the HRCO, and to do so in the context of the "culture of fear" that was evident to the Reviewers. The responsibility for Direction 12 rests with the Director, and his apparent lack of understanding of the findings in the Report, upon which Direction 12 is based, signals that that compliance may be more to the letter than spirit.

Direction 16

This Direction requires the Board to develop an Anti-Racism Policy in consultation with the PDSB communities and the Ontario Human Rights Commission (OHRC). On April 17th, a community consultation plan was due to the Minister. On that date, the Director of Education submitted a document to the Minister, the *Peel District School Board's Anti-Racism Policy Projected Consultation Timeline and Steps*.

While the Board technically complied with the April 17th timeline, I am concerned about the content of the submission, particularly with respect to the lack of detail regarding the process for determining which communities will be engaged in the consultation and how that engagement will take place. Indeed, the document submitted is not a community consultation plan, as was required by the Direction, but rather **a plan to develop** a consultation plan. Furthermore, contrary to the explicit directive to consult with the OHRC, the Board failed to do so.

Given the damaged relationships the PDSB has with a number of its communities - Black communities in particular - one would reasonably expect that the Board would prioritize efforts

to repair those relationships and take all necessary measures to rebuild trust and confidence. It is significant, therefore, that in the course of drafting a community consultation plan to engage partners in the development of an anti-racism policy, the Board in fact did not engage with any community partners.

The Director stated that the document submitted to the Minister was created by a staff-level steering committee - the Equity & Inclusion Steering Committee (the "Equity Committee"), which is discussed in more detail below. He conceded that it would have been beneficial if community partners were engaged in the development of the community consultation plan. I note that the two meetings scheduled for this Committee since the release of Report – March 13th and April 17th – were both cancelled. The Agendas of that Committee for the cancelled meetings include reference to "Anti-Racism Policy" as one of the topics for discussion, as does the Agenda for the one-hour May 8th Equity Committee meeting which was actually held. It appears however that much of the May 8th meeting was spent on the other Agenda items. While there is a discussion shown in the May 8th meeting Minutes for the need to come up with an "Anti-Racism Steering Committee", ideally to be led by an external consultant who "knows the in-depth process" and has "community engagement experience", that proposal is stated to be subject to funding approval. Furthermore, the Minutes from the May 8th meeting indicates that the Equity Committee was unaware that a community consultation plan had been submitted to the Ministry. This of course begs the question: who actually drafted the community consultation plan?

I asked the Chair about the process for developing the community consultation plan in accordance with Direction 16. His response consisted of vague details on the steps taken to respond to the April 17th submission deadline, and a suggestion that I speak with the Director on this issue. The Chair also stated that he did not see a need for this document to have come to the Board for discussion before it was submitted to the Minister. It is shocking that, in the face of the Report's findings of systemic anti-Black racism, the Chair failed to see the need for Trustee discussion on a community consultation plan to develop an Anti-Racism policy. It also speaks to

the capacity of the Board to understand and appropriately respond to the issues it is facing, as well as its capacity to lead and implement the transformational change required within the PDSB.

III. Additional Observations

I have provided my observations on the Board's compliance with the Directions specifically noted in my mandate. However, given that my appointment as Investigator stemmed from the Minister's concerns about the PDSB's ability to provide good governance to fulfill his binding Directions, it is also appropriate to reference the Board's responses to other Directions in my additional observations. The Board and Director's actions to date in response to the Directions inform my assessment of their ability to comply in future with the Directions.

I note that, to date, the Board has failed to comply with Directions that can easily be characterized as straight-forward. I specifically note that Direction 3, which required the Board to retain an Integrity Commissioner with human rights expertise by May 4th, was not complied with, nor was Direction 23 which required the Board to retain an expert to undertake a comprehensive review of the Director's Office and central offices by April 17th. I accept the Associate Director of Operational Support Services' ("AD-Operational") position that the RFPs for both positions were delayed due to the transition to remote working necessitated by COVID-19. However, I note that while the Director requested an extension for both Directions "in the context of COVID", he failed to explain that the rationale for the extension request was that staff did not have remote access to corporate files at the outset of remote working. At this point I wish to address the suggestion of the Chair, Vice Chair and Director generally, that they were delayed, or have not progressed further along, with the Directions due to March Break and/or COVID-19. Firstly, it is clear from the Chair's May 4, 2020 Action Plan, that the delay in commencing work on many of the Directions could not reasonably be attributed to March Break as even weeks after the end of March Break there was delay in the actions taken in respect to many of the Directions. As well, as indicated below, even where clear opportunities arose for the Director and the Chair to move discussion and action on the Report and Directions along, such as in the leadership meetings held on March 13th and April 3rd, 2020 and in the Board in-committee meetings held on March 24,

2020 and following, those opportunities were not seized upon and as described herein, the reasons for the inaction cannot be seen to be COVID-19 related.

I also note the Board's intention not to comply with Direction 2; another straight forward Direction. Specifically, during my interviews with both the Director and the AD-Operational, I was informed that the Trustees advised the Director that they intended to sit on the interview panel for hiring of the Integrity Commissioner required by Direction 4, contrary to the specific requirement in Direction 2 to "immediately cease to participate on hiring, promotion and appointment panels, including temporary or acting positions, except for the position of Director of Education". It is also interesting to note that the Director said that while he asked the Trustees to seek legal advice as to their intended action, he could not advise as to the date he made such a request or the date a legal opinion was received. As well, while the Director indicated that he understood the reason for Direction 2 for the Board to cease its involvement in hiring, promotions and appointment panels, except for the Director, was because such involvement was operational rather than governance, he was unclear as to where the hiring of the IC fell. Yet neither the Director or the Chair sought clarification from the Minister at any material time.

Mandate of the Board

Effective boards demonstrate as well as provide leadership. Strong leadership in the face of the damning findings of systemic racism, specifically anti-Black racism, organizational dysfunction, and community distrust and disenfranchisement calls for an understanding of the urgency to respond, as well as the need to look beyond what is being directed and seize upon any opportunity to move the Board out of its current crisis. In their responses to the Minister's binding Directions, I have not seen any evidence from the Chair or the Vice Chair of an appreciation of their responsibility to provide this leadership but instead have observed a focus on formal compliance, absent of concern for process or content. As the Chair stated in his interview, "we need to comply or we will be taken over". The focus of the Chair was on repercussions for the Board rather than meaningful and comprehensive work on the Directives as a tool to understanding and addressing the real and serious issues outlined in the Report in

order to create transformation in the lives of students, parents and the Peel community as a whole.

I note that at no point in the days or weeks following the release of the Report and Directives did the Chair facilitate any discussion among the Board on the findings of the Report and what the implications of those findings were for the priorities of the Board. Rather, the first discussion at the Board was a March 24th in-committee meeting that largely involved discussion with the Board's legal counsel on the legality of the Directions and the apology letter the Board was to consider under Direction 13. At the public session of the March 24 meeting, a report was brought forward that set out the Board's response to several Directions, all of which were more transactional than substantive. That report was created by the Chair, Vice Chair and the Director. The Chair confirmed that there was little discussion about the findings of the Report during the in-committee meeting and there were not many questions on the Report or Directions at the public meeting of the Board that followed the in-committee meeting.

It is difficult to understand how neither the Chair, Vice Chair or Director thought it appropriate to forthrightly address the findings of the Report in the in-committee meeting or in any public sessions of the Board immediately after its March 13th release, or indeed at any subsequent meeting. The lack of questions and discussion at the public session of the March 24th meeting demonstrates that the Board as a whole does not appreciate that its very mandate is to provide a vision and policy direction, as well as the leadership to drive that vision. Surely at this juncture, the Board should see that discussions on its vision and mandate in the context of the Report are not only appropriate, but crucial and urgent. Instead, discussion has been focused solely on compliance with the Minister's binding Directions. I have seen no evidence of any discussion at the Board on the substance of the Report and the implications of those findings on the immediate and long-term priorities of the Board. Indeed, I am concerned with the manner in which the Board is approaching the Report and Directions; it appears nothing more than compliance without context.

Another crucial component of a Board's mandate is community engagement. In fact, the Report noted that strong, effective school boards nurture relationships with local community groups.

The Report clearly documented that the relationship between the PDSB and its communities, and Black communities in particular, is one of distrust, disenfranchisement, disrespect and frustration. In that context, therefore, it is extremely troubling to not only see little evidence of efforts to rebuild trust with its communities, but to see a continued approach of viewing community as interfering and disruptive.

This adversarial approach to Black communities prevents the Board from seeking and seizing opportunities to rebuild trust and repair damaged relationships. I note that the apology letter that the Board was required to consider under Direction 13 was a significantly contentious exercise, and three and a half hours of discussion failed to secure consensus on the content of that letter. The Chair's observation to me that the "community has been after us" and that "it is against our human rights to force us to apologize" provides some explanation as to the process and outcome of the Board's response to Direction 13. The debate that took place as to the whether the Board would commit to anti-Black racism training, as advocated by the two Trustees, rather than only anti-bias training in an apology letter directed at Black communities is a troubling indication of the Board's failure to fully understand the findings of the Report, their responsibility to address those findings, and the need to acknowledge and act on the spirit of the Directions. As well, even in hindsight, after the negative and vocal response received from Black communities to the Board's apology letter, there was still an utter lack of insight by the Chair shown during his interview as to the significance of the decision to include no reference to anti-Black racism training.

I have not seen any evidence to indicate that rebuilding trust with communities is a priority of the Board. Letters from Black community members and organizations have not been acknowledged or responded to; another area of serious contention among the Board. There was mention of 33 individual letters/emails which the Board refuses to respond to as well as a letter from 18 organizations, and I note that some responses by the Board to letters came only after my appointment as Investigator and interview with the Chair and Vice Chair. Indeed, only on May 11, 2020, after repeated requests and urgings from one of the two Trustees, did the Chair respond to a Black Peel teacher's March 21, 2020 letter to the Trustees containing questions and

seeking responses thereto. Trespass letters against a vocal Black community member remains a point of contention and attempts on the part of one Trustee to have this trespass order explained and rescinded have been shut down at the Board table.

When asked how the Board is going to engage the Black communities when responding to the Directives, the Vice Chair commented that they are waiting for the new positions, the Superintendent Equity and the Community Outreach Worker, to lead the work. Neither of those positions are filled. When asked why the community consultation plan submitted in response to Direction 16 did not actually engage the community in its development, the Vice Chair responded that “the Directive didn’t say that we need to consult with community on the plan”. This approach to technical compliance with the Directions rather than fulfilling the purpose prevents this Board, and the Director, from meaningfully addressing the very serious issues the Board is facing. This limited checkbox approach allows no constructive or bold dialogue on what the Board’s responsibility is in leading the PDSB forward, and what actions beyond the Directions the Board must undertake. It suggests little understanding of the Report and what is required to move forward.

Dysfunction in the Board

As I have noted in my observations specific to Direction 1, dysfunction continues to be a problem on this Board. Through the course of my interviews, I have not heard of any concrete plan to address the dissention among Trustees and move the Board past its current state of dysfunction and acrimony. I echo the Mediator’s conclusion in her May 14th Interim Report: “until the distrust between the two factions on the PDSB is displaced, they will not be able to govern effectively”.

I have observed that the Chair and Vice Chair’s strict adherence to procedural process has been at the expense of critical discussions on issues relating to the Report findings that the Board ought to be prioritizing. The Chair and Vice Chair’s determinations as to the appropriateness of questions coming from Trustees can reasonably be seen as silencing mechanisms; relevant issues are mischaracterized as “personal issues” and left unaddressed. The Chair’s recent decision to dispense with preambles further exacerbates the silencing of meaningful discussion at the Board

table as it effectively results in questions being brought forward without any context. The practice of the Chair requiring Trustees' questions to be in writing and then reading the questions himself, editing out the preambles, amounts to a literal silencing of Trustees' voices.

Both the Chair and the Vice Chair of the Board attribute this ongoing dysfunction to the two Trustees who have not agreed to mediate. From their perspective, these two Trustees fail to appreciate the delineation between governance and operations, bring "personal" rather than Board matters to the table, and undermine the Board by engaging with community and the press. At no point during my lengthy discussion with either the Chair or Vice Chair did they share any insight as to why these two Trustees continued to speak with communities directly and through social media about their frustrations with their perceived lack of response to the Report findings. Neither demonstrated any awareness of the connection between the silencing effect of Board meeting procedures and the two Trustees voicing their concerns outside of the confines of the boardroom.

I am concerned that, in the absence of any plan to move the Board beyond its current state of dysfunction, both the Chair and Vice Chair suggested that the Board will move forward without the two Trustees. I note that the Mediator concluded in her Interim Report that "many of the Board members in the majority position believe that they should just continue with their plurality of 10, and/or have no interest in further attempts to reach out to the other two Board members". It is not tenable for this Board to provide good governance and comply with the Directions operating as a divided board. While votes may carry along a 10-2 split, attention needs to be paid to the minority votes; majoritarianism is a problematic approach in the context of the Report's and Directions' focus on Anti-Black racism, equity and minority rights. As the Mediator noted: "Although the PDSB operates on the basis that the majority opinion rule, in the situation where a Ministry ordered review has found that there is systemic anti-Black racism and the Minister has issued Directives to address those findings, the Board should not easily dismiss or deflect the input of the trustees that have demonstrated experience, knowledge and support on those very issues".

Dysfunction in the Director's Office

The Director of Education is responsible for delivering on 21 of the 27 Directions. I have noted my concerns regarding the Director's responses to two Directions – preserving the independence of the HRCO, and the development of a community consultation plan for the development of an Anti-Racism Policy. Neither response is reassuring. This, coupled with the unresolved tension and dysfunction in the Directors' Office, raises concerns with respect to the capacity to deliver on these Directions.

I have seen little evidence of the Director's stated appreciation for the urgent need for bold, decisive leadership to bring about the transformational change that the Directions require. It is disconcerting that the Director's brief first discussions with his leadership team on March 13th and April 3, 2020, during which the Chair gave thanks to staff for their work on COVID-19 and noted the Directions. During those meetings, the Director focused not on the very troubling findings of the Review, but rather on compliance with the binding Directions. The first conversation with his Associate Directors on March 13th focused on the need to develop a work plan for the Directions setting out timelines and responsibilities. One Associate Director observed that "if we can't have critical conversations as a senior team, how can we meet these directives?" Another Associate Director commented that they wished the Director had taken that opportunity at that first discussion to focus on the importance of internalizing the findings before responding to the Directives.

The Director met with his full leadership team again to discuss Directives on April 23, 2020, six weeks after the March 13th Report release. This time lag speaks to the Director's appreciation of the need for urgent and strong leadership in the face of the findings. When that April 23rd leadership meeting was convened, the Director led a discussion on the Directions using a facilitation tool – "Cheers, Fears & Unclears". To suggest that any findings in a Report that documents systemic anti-Black racism and the pain and harm done to Black and racialized students and communities could possibly be categorized as a *cheer* is simply inexplicable. It is not surprising that staff attending that meeting objected to the appropriateness of that tool in the Instructional Support Services meeting ("ISS"), chaired by the Associate Director, Leadership

Development & School Support Services ("AD-School Support"), on April 24, 2020, where the Report itself was first discussed. The staff subsequently developed an entirely different facilitation model for subsequent discussions with their respective teams that focused on the Report findings as well as the Directives. Both the new model, entitled "Preamble and Protocol", and the initial "Cheers, Fears and Unclears" facilitation tool were provided to me at my request. The difference between the two is startling. The Director's facilitation tool is simply a repetition of the Directives to be dealt with by the Director's Office whereas the subsequently staff designed Preamble and Protocol includes an in depth discussion about the Report and its findings and a methodology to address anti-Black Racism in student learning, curriculum, discipline and other areas, as a precursor to work on the Directives, though there is a statement made that there is "no rush to have it done by the end of May", which is not countermanded by anyone.

I also note the Director's response to one of the two Trustee's question regarding the possibility of expediting the destreaming pilot project required in Direction 19 as further evidence of the Director's failure to provide leadership and demonstrate an appreciation of the urgency required to dismantle systemic anti-Black racism beyond what is being directed by the Minister. At the April 29th Board meeting, the Director did not engage in any meaningful dialogue relating to the Trustee's question and did not reference the existence of a destreaming pilot proposal that was created by the AD-Equity in 2018. When I asked the Director why there was not a discussion at the Board meeting about early implementation of the destreaming pilot project, especially given the work that had already been done, he replied that his understanding was that the requirement in Directive was for 2021-2022 implementation. It is interesting to note that when asked by me about the prospects for earlier implementation, one of the Associate Directors indicated his view that advancing the destreaming project to September 2020 was potentially viable.

The Director further suggested that governance processes require Trustees to submit their questions in advance to enable staff to provide full responses in writing, and stated that "if the intent is to get qualified answers, it gets asked ahead of time and we provide reports to answer; if the intention is to catch someone, you ask on the spot." That the Director regarded that question as "being put on the spot" is in itself telling. Regardless of this protocol, it does not

explain why the Director was unable or unwilling to engage in a discussion on a significant initiative that is a key deliverable under the binding Directions.

The same sort of response was given by the AD-School Support when asked by me why one of the two Trustees did not get a response from the Director to her question asked at a Board meeting about what to do about the records of kids who had been expelled or suspended for reasons the Report found to be invalid. The AD-School Support told me "it's not in the directive. But we would if asked". For the Director to have failed to interpret the Trustee's question as an "ask" is troublesome. For the Director to have not suggested to the Board that his staff look into the issue is even more troublesome.

I also have concerns with the capacity of the Director to lead the Board's implementation of the Minister's binding Directions given the current staffing in the Director's Office and the continued tension between the AD-Equity and the Director. With respect to the impact of the unresolved human rights matter between the AD-Equity and Director, it is clear that the tensions are spilling over to the broader leadership team. Within the Director's Office there are concerns that the discord will impact on the PDSB's ability to implement the Directives. I also heard concerns that while there is a willingness to talk about marginalized communities, senior leadership have an issue with anti-Black racism in particular and "get their backs up"; this is also a source of the dysfunction within the Director's Office.

The AD-Equity, under whose purview most of the Operational Directives fall, has been on a leave of absence since April 15, 2020 and is currently not scheduled to return until the end of May. During this absence, the Director confirmed that her responsibilities have been assumed by the other two Associate Directors and himself, though the AD-Operational has acknowledged his role to be essentially limited to preparing the RFP's and contractual documents necessary to retain the experts referenced in the Directions. While the Director maintained that the AD-Equity's absence will not impact on his ability to comply with the Directives, he did concede that none of the three have the expertise or training in equity, human rights and anti- racism to the same degree as the AD-Equity.

The Director further suggested that given the yet-to-be hired Superintendent of Equity and in the absence of the new, robust Equity Office mandated by Direction 10, the existing staff Equity Committee comprised of internal staff, would fulfil the Directions. During the interview, the Director was not able to speak to the specific expertise, experience or credentials of any member of the Equity Committee who he is relying on to implement system-wide transformational initiatives. His reliance on a committee of staff to deliver on the Minister's Directions without the benefit of a senior leader with the necessary experience and expertise is not reassuring, especially as a number of the staff on the Equity Committee who have some equity or anti-Racism experience or training, are Superintendents with a family of schools to manage simultaneously with their role on the Committee.

Accordingly, in addition to the issue of expertise, I have serious concerns as to the leadership to be provided to the Equity Committee in the timeframe prior to the establishment of the robust Equity Office called for in Direction 10 and in the absence of the AD-Equity and a Superintendent of Equity. In that regard, I note the evidence of the other Associate Directors, and in fact the Director himself, that equity leadership is absent. To that end, one Associate Director indicated to me that the Director was still working with the leadership team to develop a work plan, which was not yet in place as at the time of his Interview with me, to establish a team to lead the work responding to the Directions. The Director was said to have outlined 7 teams and asked for the leadership team to put their names forward for the teams. In that regard, notwithstanding the Director's assurances to me that the work on the remaining Directives is well underway, given the responses by the Chair, Vice Chair, Director and Associate Director to my inquiries as to the specific work which has been undertaken as at the time of their interviews, I can arrive at no other conclusion other than that there has been a lack of meaningful action in respect of the Report and a number of the Directions; both some of the ones which have already been responded to and those remaining. The Director's Office is currently ill equipped to address the Directives in a meaningful and substantive, as opposed to a formalistic, manner.

IV. Findings

The prevailing question throughout the course of this investigation has been: does this Board and the Director's Office have the ability and capacity to provide good governance to address the issues raised in the Report and to carry out its responsibilities to implement and oversee the implementation of the Minister's binding Directions? The Board has been directed to implement major initiatives to address systemic anti-Black racism. System-wide transformational change of this nature requires strong leadership and the capacity to establish a clear vision that the entire system is inspired to fulfil. A reimagined vision for the PDSB requires a deep understanding of the issues raised in the Report, and bold leadership to inspire and lead the system forward.

I have determined that the collective Board and the Director's Office is lacking both the ability and capacity, and perhaps even more importantly, the will, to address the findings in the Report, and therefore future non-compliance with the Minister's binding Directions is probable. My specific findings are as follows:

1. The Board is dysfunctional and, with no prospect of successful mediation, is incapable of providing good governance. A divided Board cannot provide either the vision or leadership that is required to successfully implement the governance-related Directions that the Board has assumed responsibility for, nor can it provide the appropriate oversight of the Directions that fall under the responsibility of the Director of Education.
2. The Board has not demonstrated a willingness to engage in the critical discussions on the substance of the Report, the intention of the Directions, or consider the Directions in a manner other than formal compliance.
3. The Board still, after the Review Report and the Directions, has a misunderstanding of anti-Black racism. Further, there is no evidence that the Board has a willingness to engage in the necessary work to gain such an understanding, nor does the Board understand the urgency of the need to do so.

4. The Board has failed to understand that its mandate includes engagement with communities, and that respectful, collaborative relationships with communities- particularly Black communities- are essential to fulfilling the Directions and moving the PDSB out of its current crisis of non-confidence.
5. The Director of Education has not demonstrated the necessary capacity to lead the implementation of the binding Directions. There is no evidence of urgent and decisive leadership to address the findings in the Report and take the actions necessary to implement the Directions.
6. The dysfunction in the Director's Office remains unaddressed and I have seen no evidence of a plan to resolve the issues underlying the dysfunction. With no prospect for successful mediation, the senior leadership is divided. This dysfunction has, and will, adversely impact the ability to successfully and fully comply with the Directions.
7. Staffing at the senior leadership level is impacting on the timing and the quality of responses to the Minister's binding Directions. Continued limited and unsatisfactory responses and non-compliance are probable outcomes.

In conclusion, it is my view that the PDSB does not have the ability to provide good governance or to effectively carry out its responsibilities to oversee and ensure proper compliance with the Directions.

Submitted May 15, 2020.