

# Indemnification of Trustees, Officers and Employees

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Date Approved:

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### A. GENERAL

1. The Board of Trustees will indemnify an officer or an employee of the Board or a trustee against a claim for damages arising out of the performance of his or her duties or where an inquiry under Part 2 of the Inquiry Act or other proceeding involves the administration and conduct of the business of the school district and may, by an affirmative vote of a majority of its members, pay legal costs incurred in proceedings out of the claim or inquiry or other proceedings, in accordance with the regulations.
2. The Board of Trustees shall not seek indemnity against an officer or an employee of the Board in respect of any action by the officer or employee that results in a claim for damages against the Board except where the claim for damages arises out of the gross negligence of the officer or employee or where the officer or employee acted wilfully contrary to the terms of his or her employment or an order of a superior, in accordance with the regulations.

### B. REGULATIONS

1. This Bylaw shall apply:
  - (a) to individuals who are currently officers, employees or trustees of the School District; and
  - (b) to individuals who were formerly officers, employees or trustees of the School District provided that the occurrence which gives rise to the claim for indemnification occurred while they were an officer or employee or trustee.
2. The Board shall indemnify an officer, employee or trustee against a claim for damages against the officer, employee or trustee arising out of the performance of his or her duties and where an inquiry under Part 2 of the *Inquiry Act* or other proceedings involves the administration and conduct of the business of the School District except as provided for in this Policy.
3. The Board shall not indemnify an officer, employee or trustee for any matters for which insurance coverage is available to cover the liability of the officer, employee or trustee or against:
  - (a) liability and legal fees incurred as a result of an action or other proceeding taken by the Board against the officer, employee or trustee or as a result of an action or proceeding taken by the officer, employee or trustee

against the Board;

- (b) liability to pay a fine, penalty or order imposed as a result of the conviction for an offence;
- (c) legal fees incurred as a result of a prosecution where the officer, employee or trustee is convicted of an offence or obtains a conditional or absolute discharge;
- (d) liability and legal fees incurred as a result of proceedings under the *Teaching Profession Act* unless the Board, by an affirmative vote of a majority of its members, so agrees;
- (e) legal fees incurred in an appeal of any conviction, sentence, judgement or order unless the Board, by an affirmative vote of a majority of its members, so agrees;
- (f) liability and legal fees incurred by an officer, employee or trustee where the Court determines that the officer, employee or trustee knowingly contravened Section 78 of the *School Act*;
- (g) liability and legal fees incurred by an officer, employee or trustee where the Court determines that the officer, employee or trustee knowingly permitted or authorized an expenditure not authorized by an enactment;
- (h) liability incurred by an officer, employee or trustee as a result of an restitution ordered pursuant to Section 83(1)(b) of the *School Act*;
- (i) those matters for which the Board may seek indemnity from an employee or trustee pursuant to its authority under Section 113(3) of the School Act.

4. For those matters covered by section 2 and not excluded by section 3, an officer, employee or trustee may:

- (a) retain such legal counsel as the Board may appoint and such legal counsel shall be paid for and directed by the Board; or
- (b) retain such legal counsel as the officer, employee or trustee may choose, in which case the Board shall:
  - (i) have the right to direct the defence and to settle or compromise the claim or action; and
  - (ii) determine whether or not the officer, employee or trustee will be reimbursed by the Board for legal fees or any portion of the legal fees that have been paid by the officer, employee or trustee prior to the approval of the Board.

5. If the Board determines to reimburse the officer, employee or trustee, the Board shall:

- (i) have the right to approve in advance any agreement for legal fees and disbursements;
- (ii) have the right to pay all or part of the legal fees and disbursements and to set a maximum for legal fees and disbursements; and

(iii) have the right to tax the account of the legal counsel and the officer, employee or trustee shall agree to include such a term in the agreement with his/her counsel.

6. Any amount that may be payable by the Board shall be reduced by any court costs awarded to the officer, employee or trustee.

7. The Board shall give consideration to advancing legal costs to the officer, employee or trustee prior to the final resolution of a claim or action in order to prevent undue hardship. When the Board advances such costs to a officer, employee or trustee, the officer, employee or trustee shall provide a written authorization for the Board to deduct an amount equivalent to the costs advanced from future funds payable to the officer, employee or trustee by the Board. The authorization shall only be used by the Board if it is determined at a later date that the officer, employee or trustee is not entitled to be indemnified under the terms of this Policy.

Related Legislation:

School Act, Section 113