
Policy 16

BY-LAW NO. 3 (I) – INDEMNIFICATION

It is in the interest of a responsive and efficient public service that trustees, officers and employees be protected against a claim of damages arising out of the performance of their duties. None of these individuals should be placed in a position of personal liability for the performance of responsibilities vested in them by the School Act or assigned to them by the Board.

By-Law:

1. The Board will indemnify a Trustee, an officer or an employee of the Board
 - 1.1 Against a claim for damages against the Trustee, officer or employee arising out of performance of their duties; or
 - 1.2 Where an inquiry under Part 2 of the *Public Inquiry Act* or other proceeding involves the administration and conduct of the business of the School District and, in addition, the Board may pay legal costs incurred in proceedings arising out of the claim, inquiry or other proceeding.
2. The Board may, by affirmative vote of a majority of not less than 2/3 of all its members, pay
 - 2.1 Any sum required to indemnify a Trustee, an officer or an employee of the Board where a prosecution arises out of the performance of their duties with the Board; and
 - 2.2 Costs necessarily incurred;

But the Board shall not pay a fine imposed on a Trustee, an officer or an employee as a result of their conviction.

3. The Board shall not seek indemnity against a Trustee, an officer or an employee of the Board in respect of any action by the Trustee, officer or employee that results in a claim for damages against the Board except
 - 3.1 Where the claim for damages arises out of the gross negligence of the Trustee, officer or employee; or
 - 3.2 Where, in relation to the action that gave rise to a claim for damages against an officer or employee, the officer or employee willfully acted contrary to:
 - 3.2.1 The terms of their employment, or
 - 3.2.2 An order of a superior.
4. The Board's obligation to indemnify a Trustee, an officer or an employee in respect of matters occurring during their term of office or employment shall continue, notwithstanding that the term of office or employment, as the case may be, has ended.

5. Where the Board decides to pay legal costs incurred in proceedings out of a claim, inquiry under Part II of the *Public Inquiry Act* or other proceedings, the Board has the right to conduct the defense of the matter and, in its discretion, to compromise and/or settle the claim.
6. The Board shall not indemnify a Trustee, officer or employee against:
 - 6.1 Liability and legal fees incurred as a result of an action or other proceeding taken by the Board against the Trustee, officer or employee, or as a result of an action or proceeding taken by the Trustee, officer or employee against the Board;
 - 6.2 Liability to pay a fine, penalty or order imposed as a result of the conviction for an offence;
 - 6.3 Legal fees incurred as a result of a prosecution where the Trustee, officer or employee is convicted of an offence or obtains a conditional discharge;
 - 6.4 Legal fees incurred in an appeal of any conviction, sentence, judgment or order, unless the Board, by an affirmative vote of a majority of its members, so agrees;
 - 6.5 Liability and legal fees incurred by a Trustee where the Court determines that the trustee knowingly contravened the School Act;
 - 6.6 Liability incurred by a Trustee, officer or employee where the Court determined that the trustee, officer or employee knowingly permitted or authorized an expenditure not authorized by an enactment;
 - 6.7 Liability incurred by a Trustee as a result of any restitution ordered pursuant to Section 62 of the School Act; and
 - 6.8 Those matters for which the Board may seek indemnity from an employee pursuant to its authority under Section 95 of the School Act.
7. The Board may enter into individual indemnity agreements with its officers and employees not inconsistent with provisions of the School Act.

Legal Reference: Section 95, School Act

Adopted: Sept 24, 2018
