

INDEMNIFICATION BYLAW NO. 2

**BOARD OF SCHOOL TRUSTEES OF
SCHOOL DISTRICT #54 (BULKLEY VALLEY)**

TRUSTEES/OFFICERS/EMPLOYEES

A Bylaw to adopt the Indemnification of Trustees, Officers and Employees

I. GENERAL

1. The Board of Trustees will indemnify a trustee, an officer or an employee of the Board 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 may, by an affirmative vote of not less than two-thirds, of all its members, pay any sum, including costs necessarily incurred, required to indemnify a trustee, an officer or an employee of the Board where a prosecution arises out of the performance of his or her School Board duties, in accordance with the regulations. The Board shall not pay a fine imposed on a trustee, officer or employee as a result of his or her conviction.
3. The Board of Trustees 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 where the claim for damages arises out of the gross negligence of the trustee, officer or employee or where the officer or employee acted willfully contrary to the terms of his or her employment or an order of a superior.

II. REGULATIONS

1. This Bylaw shall apply:
 - a) To individuals who are currently trustees, officers or employees of the School District; and
 - b) To individuals who were formerly trustees, officers or employees of the School District provided that the occurrence which gives rise to the claim for indemnification occurred while they were a trustee, officer or employee.
2. The Board shall indemnify a trustee, officer or employee against a claim for damages against the trustee, officer or employee 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 Bylaw.
3. The Board shall not indemnify a trustee, officer or employee for any matters for which insurance coverage is available to cover the liability of the trustee, officer or employee except, at the discretion of the Board, where coverage limits have been exceeded.
4. The Board shall not indemnify a trustee, officer or employee against:
 - a) Liability and legal fees incurred as a result of an action or proceeding taken by the Board against the trustee, officer or employee;
 - b) Liability and legal fees incurred as a result of an action or proceeding taken by the trustee, officer or employee against the Board or against a trustee, officer or employee;

- c) Liability to pay a fine, penalty or order imposed as a result of a conviction for an offence;
- d) Legal fees incurred as a result of a prosecution where the trustee, officer or employee is convicted of an offence or obtains a conditional or absolute discharge;
- e) 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;
- f) Liability and legal fees incurred as a result of dishonest, fraudulent, criminal, illegal, abusive or malicious acts on the part of the trustee, officer or employees;
- g) Liability for aggravated, punitive or exemplary damages;
- h) 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;
- i) Liability and legal fees incurred by a trustee where the Court determines that the trustee knowingly contravened Section 58 of the School Act;
- j) Liability and legal fees incurred by a trustee, officer or employee where the Court determines that the trustee, officer or employee knowingly permitted or authorized an expenditure not authorized by an enactment;
- k) Liability incurred by a trustee as a result of any restitution ordered pursuant to Section 63 (1) (b) of the School Act;
- l) Those matters for which the Board may seek indemnity from a trustee, officer or employee pursuant to its authority under Section 95 (3) of the School Act.
- m) Legal fees incurred where a person makes a complaint of harassment in violation of a collective agreement, policy or statute against the trustee, officer or employee, unless the Board, by an affirmative vote of two thirds majority of its members, so agrees in accordance with paragraph 13.

Obligations of Trustees, Officers and Employees

- 5. Trustees, officers and employees shall promptly notify the Board in writing of any incident or course of events that may lead to any claims, inquiries or proceedings for which indemnification is available pursuant to this Bylaw and provide the Board with full particulars thereof.
- 6. Trustees, officers and employees shall provide information requested by the Board, its counsel or agents and otherwise cooperate and assist in the defence of any claims, inquiries or proceedings for which indemnification is available pursuant to this Bylaw.
- 7. A trustee, officer or employee shall not assume liability, sign a release or agree to a settlement of any matter for which indemnification is available pursuant to this Bylaw, without obtaining the Board's prior consent.
- 8. The Board may, by an affirmative vote of the majority of its members, decide not to indemnify or pay costs to a trustee, officer or employee who fails to comply with paragraphs 5,6 or 7.
- 9. The Board may, by an affirmative vote of a majority of its members, require a trustee, officer or employee to seek costs of a claim, inquiry or proceeding.

Legal Representation and Fees

- 10. For those matters covered by I – GENERAL – paragraphs 1 and 3 and not excluded by paragraphs 3 and 4 the Board shall retain legal counsel to represent the trustee, officer or employee and such legal counsel shall be paid for, instructed and directed by the Board. Such counsel may also represent the Board in the same claim, inquiry or proceeding, including a dispute arising out of or related to a collective agreement.
- 11. If Board retains or provides counsel pursuant to paragraph 10, it shall have no further obligation to indemnify a trustee, officer or employee for any legal fees or costs.

12. For those matters covered by I – GENERAL paragraphs 1 and 3 and not excluded by paragraphs 3 and 4, the Board may, by an affirmative vote of not less than two-thirds of all its members, permit a trustee, officer or employee to retain such legal counsel as the trustee, officer or employee may chose, where the Board considers it is appropriate for the trustee, officer or employee to obtain independent legal counsel, in which case the Board may do one or all of the following:
- a) Have the right to approve in advance any agreement for legal fees and costs;
 - b) Have the right to pay all or part of the legal fees and costs, and to set a maximum for legal fees and costs;
 - c) Have the right to direct the defence and to settle or compromise the claim or action;
 - d) Have the right to tax or assess the account of the legal counsel; and the trustee, officer or employee agrees to include such a term in the agreement with his or her counsel; and
 - e) Determine whether or not the trustee, officer or employee will be reimbursed by the Board for legal fees or costs or for any portion of the legal fees or costs that have been paid by the trustee, officer or employee prior to the approval of the Board.
13. Where a person makes a complaint of harassment in violation of a collective agreement, policy or statute against the trustee, officer or employee, arising out of the proper and reasonable performance of his or her duties, the Board may, by an affirmative vote of not less than two-thirds of all its members, provide legal representation for a trustee, officer or employee, on the terms and conditions provided for in paragraphs 10 to 12 of this Bylaw.

Integration

14. Any amount that may be payable by the Board shall be reduced by any court costs awarded to the trustee, officer or employee.
15. Any amount that may be payable by the Board shall be reduced by any other source of indemnification or contribution available to the trustee, officer or employee.

Advancing Legal Fees

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