

INDEMNIFICATION BYLAW

PREAMBLE

The *School Act* provides that the Board of Education may, by bylaw, indemnify a Trustee, Officer or Employee of the Board upon the establishment of conditions under which such indemnification applies.

It is in the interest of a responsive and efficient public service that Trustees, Officers and Employees of the Board 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.

BYLAW

1. **SUBJECT TO THE EXCLUSIONS PROVIDED IN THIS BYLAW, THE BOARD WILL INDEMNIFY A TRUSTEE, OFFICER OR EMPLOYEE:**
 - A. **AGAINST A CLAIM FOR DAMAGES MADE AGAINST THE TRUSTEE, OFFICER OR EMPLOYEE ARISING OUT OF THE PERFORMANCE OF THEIR DUTIES; OR,**
 - B. **AS A RESULT OF AN INVESTIGATION UNDER THE *PUBLIC INQUIRY ACT* OR OTHER PROCEEDING THAT INVOLVES THE ADMINISTRATION AND CONDUCT OF THE BUSINESS OF THE BURNABY SCHOOL DISTRICT.**

2. **THE BOARD MAY PAY LEGAL COSTS INCURRED IN PROCEEDINGS ARISING OUT OF THE CLAIM, INQUIRY OR OTHER PROCEEDING REFERRED TO IN THIS BYLAW. SUCH COSTS MAY INCLUDE THE SUM REQUIRED TO INDEMNIFY A TRUSTEE, OFFICER OR EMPLOYEE IF A PROSECUTION ARISES OUT OF THE PERFORMANCE OF THEIR BOARD DUTIES AS WELL AS RELATED COSTS NECESSARILY INCURRED. IF INSURANCE COVERAGE IS AVAILABLE TO THE TRUSTEE, OFFICER OR EMPLOYEE, INCLUDING THROUGH SCHOOL PROTECTION PLAN (SPP) COVERAGE, THE BOARD SHALL NOT INDEMNIFY THE TRUSTEE, OFFICER OR EMPLOYEE, UNTIL THE AVAILABLE INSURANCE COVERAGE IS EXHAUSTED.**

3. **WHERE THE BOARD DETERMINES IT IS APPROPRIATE TO PAY LEGAL COSTS INCURRED IN PROCEEDINGS OUT OF A CLAIM, *PUBLIC INQUIRY ACT* OR OTHER PROCEEDINGS, THE BOARD HAS THE RIGHT TO CONDUCT THE**

DEFENSE OF THE MATTER AND, AT ITS DISCRETION, TO COMPROMISE AND/OR SETTLE THE CLAIM.

4. WHERE LEGAL COUNSEL HAS BEEN APPOINTED AND INSTRUCTED BY THE BOARD OR DESIGNATE, LEGAL COUNSEL SHALL BE PAID FOR AND DIRECTED BY THE BOARD;
5. WHERE LEGAL COUNSEL HAS BEEN CHOSEN BY THE TRUSTEE, OFFICER OR EMPLOYEE, THE BOARD SHALL HAVE THE RIGHT TO:
 - A. APPROVE, IN ADVANCE, ANY AGREEMENT FOR LEGAL FEES AND DISBURSEMENTS;
 - B. PAY ALL OR PART OF THE LEGAL FEES AND DISBURSEMENTS AND TO SET A MAXIMUM FOR LEGAL FEES AND DISBURSEMENTS;
6. THE BOARD MAY, BY AFFIRMATIVE VOTE OF NOT LESS THAN TWO-THIRDS (2/3) OF ALL ITS MEMBERS, PAY:
 - A. ANY SUM REQUIRED TO INDEMNIFY A TRUSTEE, OFFICER OR EMPLOYEE WHERE A PROSECUTION ARISES OUT OF THE PERFORMANCE OF THEIR DUTIES; AND,
 - B. COSTS NECESSARILY INCURRED BY THE TRUSTEE, OFFICER OR EMPLOYEE.

Definitions

In this bylaw, the following capitalized terms are defined as indicated:

“Board” means the Board of Education, governing body of School District No. 41 (Burnaby);

“Trustee” means a person elected or appointed to the Board of Education under the *School Act*;

“Officer” means the Superintendent, Secretary-Treasurer, Assistant Secretary-Treasurer or other senior staff designated by the Board;

“Employee” means any person employed by the Board, including teachers, support staff, administrators and other staff, but excludes persons engaged by contract as independent consultants unless specified by the Board;

Indemnification of a Trustee, Officer, or Employee extends beyond a term in office or a term of employment and applies to a former Trustee, Officer or Employee.

EXCLUSIONS & LIMITATIONS

The Board shall not indemnify a Trustee, Officer or Employee under this bylaw in respect of:

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 an action or proceeding taken by the Trustee, Officer or Employee against the Board;

2. Liability to pay a fine, penalty or order imposed as a result of a conviction for an offence;
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;
4. Legal fees incurred in an appeal of any conviction, sentence, judgment or order, unless the Board, by an affirmative vote of a two-thirds (2/3) majority of its members, so agrees;
5. 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. Liability incurred by a Trustee, Officer or Employee as a result of any restitution ordered pursuant to Section 62 of the *School Act*;
7. Liability incurred by a Trustee, Officer or Employee where the court determines the Trustee, Officer or Employee knowingly contravened the *School Act*; and,
8. The Board shall not indemnify a Trustee, Officer or Employee for matters including but not limited to the following:
 - a. Legal fees and/or liability resulting from an action or any 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;
 - b. A fine, penalty or order imposed as a result of a conviction for an offence;
 - c. Legal fees incurred as a result of prosecution where the Trustee, Officer or Employee is convicted of an offence or obtains a conditional or absolute discharge;
 - d. Liability and/or legal fees resulting from proceedings initiated pursuant to the Teaching Profession Act unless the Board agrees to the contrary, by an affirmative vote of a majority of its members;
 - e. Legal fees incurred in an appeal of any conviction, sentence, judgment or order unless the Board agrees to the contrary, by an affirmative vote of a majority of its members;
 - f. Liability and/or legal fees incurred by a Trustee where there has been a determination by a Court that the Trustee knowingly contravened Section 58 of the *School Act*;
 - g. Liability and/or legal fees incurred by a Trustee, Officer or Employee where there is a determination by a Court that the Trustee, Officer or Employee knowingly permitted and/or authorized an expenditure not otherwise authorized by an enactment; and,
 - h. Liability incurred by a Trustee resulting from any restitution ordered pursuant to section 63(1)(b) of the *School Act*.

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Date Adopted: 2026-03
Date(s) Revised:

Cross References: