

## Policy 17 - Indemnification Bylaw - Bylaw 390

1. This Bylaw shall apply:
  - a. To individuals who are currently trustees, officers or employees of the Surrey School District No. 36 (the "District"); and
  - b. To former trustees, officers or employees of the District provided that the occurrence which gives rise to the claim for indemnification occurred while they were a trustee, officer or employee of the School District, and for the purposes of this Bylaw, the terms "trustees", "officers" or "employees" includes such former persons.
  
2. The Board of Education of School District No. 36 (Surrey) (the "Board") shall indemnify a trustee, an officer or an employee of the Board
  - a. Against a claim for damages against the trustee, officer or employee arising out of performance of his or her duties; or
  - b. Where an inquiry under the *Public Inquiry Act* or other proceeding involves the administration and conduct of the business of the Districtincluding in respect of legal costs incurred in the proceedings arising out of the claim, inquiry or other proceeding, provided those legal costs are incurred in accordance with the procedures in this Bylaw.
  
3. The Board may, by affirmative vote of a majority of not less than two-thirds of all its members, pay:
  - a. Any sum 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 duties with the Board; and
  - b. 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.
  
4. The Board shall not seek indemnity against a trustee, an officer or an employee of the Board in respect of any conduct by the trustee, officer or employee that results in a claim for damages against the Board except
  - a. Where the claim for damages arises out of the gross negligence of the trustee, officer or employee; or
  - b. Where, in relation to the action that gave rise to a claim for damages against an officer or employee, the officer or employee wilfully acted contrary to:
    - i. The terms of his or her employment; or

- ii. An order of a superior.
5. The Board shall not indemnify a trustee, officer or employee for any matter for which insurance coverage is available to cover the liability of the trustee, officer or employee except, at the discretion of the Board or the Superintendent, where coverage limits have been exceeded.
  6. The Board shall not indemnify a trustee, officer or employee for any matters or activities that occur outside the course and scope of the reasonable and proper performance of the responsibilities and duties of the trustee, officer or employee, acting in good faith.
  7. The Board shall not indemnify a trustee, officer or employee against:
    - a. Liability and legal fees incurred as a result of an action or other 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 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;
    - e. 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;
    - f. Liability and legal fees incurred by a trustee where the Court determines that the trustee knowingly contravened the *School Act*;
    - g. Legal fees incurred by an officer or an employee in relation to the investigation of an allegation of professional misconduct or in relation to an investigation of an allegation of bullying, harassment, discrimination or other misconduct or malfeasance, unless either the Board, by an affirmative vote of a majority of its members, or the Superintendent, in their respective absolute discretions, determines otherwise;
    - h. Liability and legal fees incurred as a result of proceedings under the *Teachers Act* unless the Board, by an affirmative vote of a majority of its members, or the Superintendent, so agrees;
    - i. 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 employee;
    - j. Liability for aggravated, punitive or exemplary damages;
    - k. 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;
    - l. Liability incurred by a trustee as a result of any restitution ordered pursuant to section 63(1)(b) of the *School Act*;

- m. 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*.
8. Where this Bylaw applies, or where a trustee, officer or employee seeks indemnity under this Bylaw, the Board may 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 in a dispute arising out of or related to a collective agreement.  
If the Board retains or provides counsel, it shall have no further obligation to indemnify a trustee, officer or employee for any legal fees or costs.  
The Superintendent, or the Board by an affirmative vote of not less than two-thirds of all its members, may permit a trustee, officer or employee to retain such legal counsel as the trustee, officer or employee may choose, where the Board or Superintendent considers it appropriate for the trustee, officer or employee to obtain independent legal counsel, in which case the Board or Superintendent may do one or all of the following:
- a. Approve in advance any agreement for legal fees and costs;
  - b. Set a maximum for legal fees and costs that will be paid under the indemnity;
  - c. Direct the defence and to settle or compromise the claim or action;
  - d. 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 or Superintendent as the case may be.
9. Any amount that may be payable by the Board as an indemnity under this Bylaw shall be reduced by any court or other costs recovered by the trustee, officer or employee in respect of the claim, inquiry or other proceeding in which indemnity is sought.
10. The Board may advance an amount for legal costs to the trustee, officer or employee prior to the final resolution of a claim or action or determination of the applicability of this Bylaw. When the Board advances such costs 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 costs 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 pursuant to the terms of this Bylaw.
11. The Board may enter into individual indemnity agreements with its officers and employees not inconsistent with this Bylaw and the provisions of the *School Act*.

## Resources

*School Act*, R.S.B.C., 1996, c. 412.

Approved: June 10, 2026