

**BOARD OF EDUCATION
School District #33 (Chilliwack)**

**3
BYLAW
Indemnification**

A BYLAW OF THE BOARD OF EDUCATION OF SCHOOL DISTRICT NO. 33 (Chilliwack) (hereinafter called "the Board") to establish Board indemnification.

WHEREAS the *School Act* provides that the Board shall deal with such matters by bylaw.

AND WHEREAS the Board wishes to enact an indemnification bylaw.

NOW THEREFORE the Board enacts as follows:

School District No. 33 (Chilliwack) Indemnification Policy 233 is hereby repealed.

This bylaw may be cited as School District No. 33 (Chilliwack) Indemnification Bylaw 3.

The definitions contained in the *School Act* shall apply to this bylaw.

1. **Interpretation:** In this bylaw:
 - a) "trustee" means a member of the Board of Education School District No. 33 (Chilliwack);
 - b) "officer" means a Superintendent, Assistant Superintendent, Secretary-Treasurer or Director;
 - c) "employee" means all excluded staff, school-based administrators, teachers and nonteaching personnel other than officers;
 - d) reference to a trustee, officer or employee includes a former trustee, officer or employee;
 - e) wherever the singular or masculine or neuter is used in this bylaw, the same shall be construed as meaning the plural, the feminine or the body corporate whenever the context so requires;
 - f) inquiries or proceedings arising out of the administration and conduct of the business of the school district are applicable.

2. Indemnification

- a) The Board shall indemnify a school trustee, an officer or an employee of the Board against a claim for damages against the trustee, officer or employee arising out of the performance of his duties, and, in addition, pay the actual costs incurred by the trustee, officer or employee in a court proceeding arising out of the claim, except as otherwise provided for in this bylaw;
- b) The Board shall indemnify a school trustee, an officer or an employee where an inquiry under the *Inquiry Act* or other proceedings involving the administration and conduct of the business of the school district, and also pay legal costs incurred in such inquires or proceedings, except as otherwise provided in this bylaw.

3. **Contracts:** This bylaw refers to officer and employee employment contracts, including collective agreements, now in force or in force in the future.

4. **Exclusions:** In the event that insurance coverage is available with respect to the liability of the trustee, officer or employee, the Board shall not indemnify the trustee, officer or employee as the case may be.

The Board shall not indemnify a trustee, officer or employee against:

- a) fine, penalty or order imposed as a result of a conviction for an offence;
- b) 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;
- c) 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;
- d) 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;
- e) 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;
- f) liability and/or legal fees incurred by a trustee where there has been a determination by a Court that the trustee knowingly contravened 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;
 - h) liability incurred by a trustee resulting from any restitution ordered pursuant to the *School Act*;
 - i) those matters for which the Board, pursuant to its authority under the *School Act*, may seek indemnity from an employee.
5. **Legal Counsel:** For those matters provided in Section 2 of this bylaw, and not excluded by Sections 4, the trustee, officer or employee may either:
- a) retain legal counsel appointed by the Board, in which case legal counsel shall be paid for and directed by the Board;
 - b) retain legal counsel chosen by the trustee, officer or employee, in which case the Board shall have the right to:
 - i) approve, in advance, any agreement for legal fees and disbursements;
 - ii) pay all or part of the legal fees and disbursements and to set a maximum for legal fees and disbursements;
 - iii) direct the defence and to settle or compromise the claim or action;
 - iv) tax the account of the legal counsel and the trustee, officer or employee agrees to include such a term in the agreement with his/her counsel; and
 - v) determine whether or not the trustee, officer or employee will be reimbursed by the Board for legal fees or any portion of the legal fees that have been paid by the trustee, officer or employee prior to the
 - vi) approval of the Board.
6. **Amounts Payable:** Any amount that may be payable by the Board shall be reduced by any court costs awarded to the trustee, officer or employee.
7. **Advancing Legal Costs:** The Board shall give consideration to advancing legal costs to the trustee, officer or employee prior to the final resolution of a claim or action in order to prevent undue hardship. 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.

8. **Severability:** If any section or lesser portion of this bylaw is held invalid, the invalidity shall not affect the validity of the remaining portions of this bylaw.

READ A FIRST TIME 10th day of June 2008

READ A SECOND TIME THE 10th day of June 2008

READ A THIRD TIME, RECONSIDERED AND ADOPTED THE 10th day of June 2008

Board Chair

Secretary Treasurer