



## SCHOOL DISTRICT No. 69 (QUALICUM)

### BOARD BYLAW 6

### INDEMNIFICATION

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A bylaw to provide that the Board of Education shall indemnify a trustee, an officer or an employee of the Board against a claim for damages arising out of the performance of her/his duties; and for an inquiry or proceeding involving the administration and conduct of the business of the school district; and will pay legal costs incurred in a court proceeding arising out of the claim or the legal costs arising from such inquiries or proceedings.

WHEREAS the *School Act* R.S.B.C. 1996 c. 412 provides that the Board of Education may by bylaw provide that the Board will indemnify a trustee, an officer, or an employee of the Board against a claim for damages against a trustee, officer, or employee of the Board arising out of performance of her or his duties and, in addition, pay legal costs incurred in proceeding arising out of the claim;

AND WHEREAS the *School Act* R.S.B.C. 1996 c. 412 also provides that the Board may by bylaw indemnify a trustee, an officer, or an employee of the Board where an inquiry under Part 2 of the *Public Inquiry Act* or other proceeding involves the administration and conduct of business of the School District, and also pay legal costs incurred in a proceeding arising out of the inquiry or other proceeding;

NOW THEREFORE the Board of Education of School District No. 69 (Qualicum) in open meeting assembled enacts as follows:

#### 1. Interpretation

In this bylaw, which may be cited as "Indemnification Bylaw No. 18":

- a. "Board" means the Board of Education of School District 69 (Qualicum);
- b. "trustee" means a member of the Board of Education of School District 69 (Qualicum);
- c. "officer" means a superintendent, assistant superintendent, secretary-treasurer, assistant secretary-treasurer, District Principal, Principal or Vice Principal of the Board;
- d. "employee" means all Board teaching and non-teaching personnel other than officers;
- 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.

#### 2. Indemnification

- a. The Board shall indemnify a 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 her/his duties and, in addition, pay the reasonable legal costs incurred by the trustee, officer, or employee in proceedings arising out of the claim except as otherwise provided for in this bylaw.
- b. The Board shall indemnify a trustee, an officer, or an employee where there is an inquiry under the *Public Inquiry Act* or other proceedings involving the administration and conduct of the business of School District No. 69 (Qualicum), and also pay reasonable legal costs incurred in such inquiries or proceedings, except as otherwise provided in this bylaw;



- c. The Board may, by affirmative vote of not less than 2/3 of all trustees, pay any sum required to indemnify a trustee, an officer or an employee if the prosecution arises out of the performance of his or her Board duties, and costs necessarily incurred.
- d. Section 2(a), 2(b), and 2(c) apply in respect of a person who was a trustee, an officer, or an employee of the Board at the time he/she performed the duties out of which the claim, inquiry or other proceeding arise, whether or not he/she is a trustee, an officer, or an employee at the time the claim for damages, inquiry, prosecution, or other proceeding arises, or any legal action arising out of the claim, inquiry or other proceeding is commenced or concluded except as otherwise provided in this bylaw;
- e. This bylaw applies only to:
  - i. the performance of duties by current or former trustees, officers, or employees; and
  - ii. inquiries or proceedings arising out of the administration and conduct of the business of School District No. 69 (Qualicum).

**3. Administration of Medication**

Without limiting the generality of Section 2, the Board's indemnification of trustees, officers, or employees against claims for damages as set out in Section 2(a) hereof, shall include, but is not limited to, claims arising from Board-authorized administration of medication to students, supervision of self-administration of medication by students, and performance of physical procedures relating to the medical needs of students.

**4. Contracts**

This bylaw refers to officer and employee employment contracts, including collective agreements, now in force or in force in the future. It does not supersede those contracts or collective agreements.

**5. Exclusions**

- a. In the event that insurance coverage is available to the trustee, officer, or employee 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 until the available insurance coverage is exhausted.
- b. The Board shall not indemnify a trustee, officer, or employee against:
  - i. legal fees and/or liability resulting from an action or any other proceeding taken by the trustee, officer, or employee against the Board.
  - ii. liability and/or legal fees resulting from investigations or proceedings undertaken pursuant to the *Teachers Act* unless the Board agrees to the contrary by an affirmative vote of a majority of its members.
  - iii. a fine, penalty, or order imposed as a result of a conviction for a criminal offense.
  - iv. 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.



- v. 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*. 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.
- vi. liability incurred by a trustee resulting from any restitution ordered pursuant to Section 63(1)(b) of the *School Act*.
- vii. those matters for which the Board pursuant to its authority under Section 95(3) of the *School Act* may seek indemnity from an employee.
- viii. in respect of any complaint of harassment made against the trustees, officer or employee.

**6. Legal Counsel**

For those matters provided in Sections 2 and 3 of this bylaw, and not excluded by Section 5 and 6:

- a. the Board has the authority to appoint and instruct legal counsel; or,
- b. with the prior approval of the Board, the trustee, officer, or employee may 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 reasonable maximum for legal fees and disbursements;
  - iii. direct the defence and to settle or compromise a claim or action;
  - iv. review the account of the legal counsel pursuant to the *Legal Profession Act* and the trustee, officer, or employee shall include such a term in an agreement with her/his legal 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 approval of the Board.

**7. Amounts Payable**

Any amount that may be payable by the Board shall be reduced by any court costs awarded and paid to the trustee, officer, or employee.

**8. Advancing Legal Costs**

The Board may advance 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.



**9. 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.

**10. Citation**

This bylaw may be cited for all purposes as Board of Education of School District No. 69 (Qualicum) "Indemnification Bylaw No. 6".

**TITLE**

This bylaw may be cited as "School District No.69 (Qualicum) Indemnification Bylaw No.6".

Read a first time this 25<sup>th</sup> day of November, 2014.

Read a second time this 27<sup>th</sup> day of January, 2014.

Read a third and final time, passed and adopted this 24<sup>th</sup> day of February, 2015.

*Original signed copy on file*

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CHAIRPERSON OF THE BOARD

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SECRETARY TREASURER