

**SCHOOL DISTRICT NO. 8 (KOOTENAY LAKE)
BYLAW NO. 3
INDEMNIFICATION OF EMPLOYEES AND TRUSTEES**

1. GENERAL:

- 1.1 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 Public Inquiry Act or other proceeding involves the administration and conduct of the business of the School District and will pay legal costs incurred in proceedings out of the claim or inquiry or other proceedings, subject to and in accordance with the regulations.
- 1.2 The Board of Trustees will determine, in accordance with Section 95(2) of the School Act, the amount of indemnity, 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.
- 1.3 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 of employee or where the officer or employee acted willfully contrary to the terms of his or her employment or an order of a superior, in accordance with the regulations.

2. REGULATIONS:

- 2.1 This Bylaw shall apply:
 - 2.1.1 to individuals who are currently trustees, officers or employees of the School District; and
 - 2.1.2 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.
- 2.2 This bylaw shall not apply to employees whose terms of employment as set out in a collective agreement or employment contract include a provision for indemnification other than as set out in this bylaw.

- 2.3 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 Public Inquiry Act or other proceedings involves the administration and conduct of the business of the School District except as provided for in this Policy.
- 2.4 The Board shall not indemnify a trustee, officer or employee for any matters for which insurance coverage is provided to cover the liability of the trustee, officer or employee or against:
- 2.4.1 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 as a result of an action or proceeding taken by the trustee, officer or employee against the Board;
 - 2.4.2 liability to pay a fine, penalty or order imposed as a result of the conviction for an offence;
 - 2.4.3 legal fees incurred as a result of a prosecution where the trustee, officer or employee is convicted of an offence or obtains a conditional or absolute discharge;
 - 2.4.4 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, so agrees;
 - 2.4.5 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;
 - 2.4.6 liability and legal fees incurred by a trustee where the Court determines that the trustee knowingly contravened Section 58 of the School Act;
 - 2.4.7 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;
 - 2.4.8 liability incurred by a trustee as a result of any restitution ordered pursuant to Section 63(1)(b) of the School Act;
 - 2.4.9 those matters for which the Board may seek indemnity from an employee pursuant to its authority under Section 95(3) of the School Act.

- 2.5 For those matters covered by section 2 and not excluded by section 3, the trustee, officer or employee may:
- 2.5.1 retain such legal counsel as the Board may appoint and such legal counsel shall be paid for and directed by the Board;
 - 2.5.2 retain such legal counsel as the trustee, officer or employee may choose, in which case the Board shall:
 - a) have the right to approve in advance any agreement for legal fees and disbursements;
 - b) have the right to pay all or part of the legal fees and disbursements and to set a maximum for legal fees and disbursements;
 - c) have the right to direct the defense and to settle or compromise the claim or action;
 - d) have the right to tax the amount of the legal counsel and the trustee, officer or employee agrees to include such a term in the agreement with his/her counsel; and
 - e) determine whether or not the trustee, officer or employee will be reimbursed by the Board for legal fees that have been paid by the trustee, officer or employee prior to the approval of the Board.
- 2.6 Any amount that may be payable by the Board shall be reduced by any court costs awarded to the trustee, officer or employee.
- 2.7 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 a 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 under the terms of this Policy.