

NORTHEASTERN CATHOLIC DISTRICT SCHOOL BOARD

Policy
B-8

Authority
98-172 / 03-106

INDEMNIFICATION OF MEMBERS OF THE BOARD AND BOARD EMPLOYEES

POLICY STATEMENT

It is the policy of the Board that the Board indemnify and hold harmless its members of the Board and its senior administrative and supervisory employees with respect to legal liability arising out of an act, error or omission by the individual acting on behalf of the Board.

Application:

This policy applies to members of the Board of Trustees, the Director of Education, Superintendent of Education, Manager of Financial Services, Manager of Human Resources, Manager of Plant, Principals and Vice-principals.

POLICY REGULATIONS

1. The Board agrees to indemnify and hold harmless its employees and members of the Board as identified above with respect to any and all claims, complaints, or charges and, in particular, to pay on their behalf all fines, awards and sums which the individual shall become obligated to pay by reason of any court order or sentence or any award and any liability imposed by law upon such individual provided, however, that the legal liability arises out of an act, error, or omission by the individual acting on behalf of the Board, and also provided:
 - 1.1 The individual was acting in accordance with Board policies;
 - 1.2 The individual did not intentionally breach the relevant statute or regulation and provided that this indemnification shall not apply to any charges pursuant to the Criminal Code of Canada (except that subsection 171(1), 18 of the Education Act, R.S.O. 1990, c. E2 shall apply), Canada Food and Drug Act, or Canada Narcotic Control Act;

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- 1.3 The individual provides full information to the Board and its agents, in a timely manner, with respect to the incident and surrounding circumstances and co-operates fully with the Board and its agents with respect to the investigation, negotiation, settlement and defence of the claim, charges, etc., and;
- 1.4 The indemnification is subject to a specific order of a court or board of competent jurisdiction prohibiting indemnification.
2. With respect to any claims for damages, all of the provisions in the Board's insurance policy or policies as well as any internal policy with respect to procedure and coverage will apply. With respect to charges or complaints against an individual, subject to the exceptions set out in subclauses 1.1, 1.2, 1.3 and 1.4, the Board shall appoint legal counsel and any and all experts as the Board considers necessary. With respect to charges pursuant to the Criminal Code of Canada, Canada Food and Drugs Act or Canada Narcotic Control Act, the Board may, in its sole and absolute discretion, determine whether it will appoint legal counsel and any and all experts as the Board considers necessary. In any such case, the Board shall have the full right to defend in the name of and on behalf of the individual, and make such investigation and conduct such negotiations and settlements of any claim, complaint or prosecution as may be deemed necessary or expedient by the Board. Where an individual is charged or is subject to a complaint under an act or regulation or under the Criminal Code of Canada and chooses to appoint their legal counsel or experts, the Board shall not be obligated to pay legal or expert costs, but shall in its sole discretion determine what, if any, amount of such legal or expert costs to the Board will reimburse to the individual, either during the prosecution or hearing, or after the completion of the prosecution or hearing. Where an individual appoints their own legal counsel and pleads guilty to a charge, this indemnification shall not apply. Where an individual appoints their own legal counsel and there is a conviction after the trial or award after a hearing, the indemnification will apply, subject to the limitations set out above.

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- 3. The Board reserves the right to dispense whatever discipline, including possible termination of employment, in accordance with other Board contract or policies, as it may deem appropriate, if the employee does not act in accordance with Board policies or goes beyond, or short of, or breaches what would be considered normal and prudent conduct. The Board also reserves the right to take whatever steps it deems necessary to a member of the Board, on a similar basis as noted immediately above.

- 4. The indemnification covers trustees, ex-trustees, employees and ex-employees, as identified above, for any act, error or omission which occurred during the performance of an employee's duty while employed with the Board, and also covers a member of the Board for any act, error or omission which occurred during the performance of the member's duty while a member of the Board.