

**THE PROTESTANT SEPARATE SCHOOL BOARD
OF THE TOWN OF PENETANGUISHENE**

POLICY MANUAL

POLICY TITLE:

**Indemnification of Board Employees
and Members of the Board**

SECTION/CODE:

Personnel A – 17

APPROVAL DATE:

June 13, 2022

SUPERSEDES:

December 5, 2016

NUMBER OF PAGES:

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REVIEW DATE:

June 2026

POLICY STATEMENT

The Protestant Separate School Board of the Town of Penetanguishene is an organization that understands that the employees may be subject to legal liability arising out of an act, error or omission when acting on behalf of the Board.

This policy is aligned with and should be interpreted to be consistent with the Board's policies and the Ontario Human Rights Code.

POLICY PURPOSE

To provide a clear process of dealing with legal matters involving staff.

GUIDELINES

1. The Board shall indemnify and hold harmless, members of the Board and its employees with respect to any and all claims, complaints, or charges, and in particular, to pay on their behalf all fines, awards, and reasonable 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 good faith, in accordance with Board policies or regulation;
 - 1.2 the individual did not intentionally breach the relevant statutes or regulations, or Board policies or regulations, 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 Drugs Act*, or, *Controlled Drugs and Substance Act*;
 - 1.3 the claim does not arise out of a matter personal to the individual;

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- 1.4 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 defense of the claim, charge, etc.; and
- 1.5 the indemnification is subject to the 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 or regulation with respect to procedure and coverage will apply.
 - 2.1 With respect to charges or complaints against an individual, subject to the conditions set out in sub-clauses 1.1, 1.2, and 1.4, the Board may, in its sole and absolute discretion, appoint legal counsel and any and all experts as the Board considers necessary.
 - 2.2 With respect to charges pursuant to the *Criminal Code of Canada*, *Canada Food and Drugs Act*, or, *Controlled Drug and Substance 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.
 - 2.3 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 his/her 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 the Board will reimburse to the individual, either during the prosecution or hearing, or after the completion of the prosecution or hearing.
 - 2.4 Where an individual appoints his/her own legal counsel and pleads guilty to a charge, this indemnification shall not apply.

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2.5 Where an individual appoints his/her own legal counsel and there is a conviction after trial or award after a hearing, the indemnification will apply subject to the limitations set out above.

3. The Board reserves the right to take whatever steps it deems necessary with respect to a member of the Board or employee of the Board. The Board also reserves the right to dispense whatever discipline, including possible termination of employment in accordance with other Board contracts, policies or regulations, as it may deem appropriate, if the employee does not act in good faith or in accordance with board policies or regulation, or goes beyond, or short of, or breeches what would be considered normal and prudent conduct.

4. The indemnification 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; and also covers employees and former employees for any act, error, or omission which occurred during the performance of an employee's duty while employed with the Board.

REFERENCES:

The Education Act and its Attendant Regulations;

Criminal Code of Canada;

Canada Food and Drugs Act;

Controlled Drug and Substance Act; and

Municipal Conflict of Interest Act.