



**BOARD OF EDUCATION OF
SCHOOL DISTRICT NO. 46 (SUNSHINE COAST)**

POLICY COMMITTEE

AGENDA

January 26, 2016 from 11:30-1:00 p.m.
School Board Office – Gibsons, BC

1. Policy 3 – Role of the Trustee
2. Policy 7 – Trustee Donations

Proposed Wording Changes to Policy 3 and Policy 7

Dear Trustees:

Below I have provided some recommendations as to changes to the wording of certain sections of the Board policies and the rationale behind these changes. These changes are based upon advice that I have received from my solicitor, Mr. Wayne Rowe, from the accounting firm of Smythe Ratcliff, of Vancouver, who are specialists in tax and estate preparation, and from my conversation with an agent at Canada Revenue Agency. My recommendations are based upon the advice I have received and that Board policy should not be inconsistent with the School Act or other Acts of Law, nor infringe upon the rights of any trustee or any organization that they chose to serve with.

Policy 3, Role of the Trustee

For clarification purposes:

Section 3.10

This section also applies equally to the Chair of the Board, that the Chair has no authority to give direction to the Superintendent or any other staff, without direction from the Board. This is confirmed by the wording of Section 4.8, Role of the Chair.

Section 3.14 and Section 3.16

These two sections are in conflict with each other. Section 3.14 states that the trustee must “vote on every motion before the Board”, while Section 3.16 states that a trustee should “absent oneself from discussing or voting on issues when in a conflict of interest.” The recommendation is to amend Section 3.14 to allow for trustees to “abstain” from voting when in a perceived conflict of interest. Section 3.14 also is in conflict with Section 4.5, Role of the Chair, which limits the right of the Chair to vote. There is no such provision for this under the School Act.

Section 3.15

This section states that trustees “Make no disparaging remarks or accusations.....including in election campaigns”. The conduct of any candidate in an election campaign is subject to the provincial Elections Act and this is where a candidate should be held accountable for their conduct, not under any Board of Education policy which has no authority over candidates in an election campaign. I recommend that the wording “and including in election campaigns” be removed from Section 3.15.

Section 3.17

The Board of Education has no authority to dictate to other organizations or societies who can serve on their Boards. The responsibility of a trustee to self declare a conflict of interest is clear under the School Act. It is not for the Board of Education to determine what organizations a trustee may belong to or on what Boards of Directors they may serve. I recommend that this section be removed from our policy.

Section 3.18

This section is actually in conflict with the School Act. Any parent or guardian of a student at a public school in British Columbia is automatically a member of the Parent Advisory Council of that student's school. Also, as these societies are separate societies, not governed by the school district, a Board of Education has no right to dictate who can serve on their Boards of Directors. I recommend that this policy be amended or removed.

Section 3.19

As the responsibilities and obligations of trustees are governed by the School Act, not by Board policy, I recommend that this section be removed. Should anyone be unsure of the duties of the office of trustee, please check with "bullet" 3 on the Oath of Office.

Policy 7, Trustee Donations

This particular piece of policy has one word, "un-targeted", that really could create difficulties for the School District. I have received advice about the laws governing taxable donations from the accounting firm of Smythe Ratcliff and the wording in the Policy 7. Under Canada Revenue Agency guidelines there needs to be a process for determining how donations accepted by a "charitable organization" are used. Normally that is determined by the donor. If there is no stipulation on the purpose of a donation, there needs to be a process in place that determines how that donation will be used by the organization and on whose authority that decision will be determined. We have no process in place to make those determinations. That could put our "charitable status" at risk.

It is my recommendation that the word "un-targeted" be removed from Policy 7. It is my understanding that the concern about trustees making donations was, in part, due to the perception that they could be attempting to gain a benefit from making those donations. This is why I insisted that the policy wording we discussed in the autumn of 2013, include the word "anonymous" in this policy, for just that purpose. I don't believe there is any issue with that policy if the word "un-targeted" is removed.

J. WAYNE ROWE LAW OFFICE
Barristers & Solicitors

GIBBSONS OFFICE:
758 School Road
Gibsons, B.C.
Tel: (604) 886-2029
Fax: (604) 886-9191

MAILING ADDRESS:
Post Office Box 1880
Gibsons, B.C.
V0N 1V0

J. WAYNE ROWE LAW CORPORATION

January 18, 2016

MR. GREG RUSSELL
P.O. Box 492
Gibsons, B.C.
V0N 1V0

Dear Greg:

Re: School Board Trustees

In response to your query regarding the right of a school board trustee to belong to other organizations while serving as a trustee I confirm that there are no prohibitions to a trustee participating in organizations or societies other than as provided for in section 33 of the School Act. If a trustee is a member of an outside organization a school trustee must also ensure that he or she complies with the conflict of interest provisions in Part 5 of the School Act.

Yours very truly,

J. WAYNE ROWE LAW CORPORATION

per:


J. WAYNE ROWE

JWR/

3 ROLE OF THE TRUSTEE

The Board and Trustees shall operate in an ethical, respectful and professional manner. This policy shall be recognized as the Board's Code of Conduct. Consequently, trustees shall:

- 3.1 Be prepared for the work of the Board by devoting time, thought and study to meeting agendas, policies and bylaws, rules of order, provincial educational issues, community issues, the Board strategic plan and other relevant information.
- 3.2 Attend all Board meetings, working sessions, and meetings of all committees of which they are Board-appointed members, except when absence is necessary.
- 3.3 Work harmoniously with all other trustees in the spirit of openness, cooperation and trust; respect and encourage the free and appropriate expression of opinions by other trustees.
- 3.4 Immediately share with the Board and/or senior administration, through the Board Chair, any significant information that may impact the Board or School District No. 46 (Sunshine Coast), and not withhold from the Board any information necessary to make an informed decision.
- 3.5 Be knowledgeable and respectful of the roles of those who work with and for the Board.
- 3.6 Endeavour to fairly, impartially and equitably ensure the district and schools are administered by the most qualified and appropriate personnel.
- 3.7 Be loyal and accessible to the community at large, superseding any conflicting loyalties to employee, advocacy or interest groups; political parties; other councils or boards; individual employees, schools, electoral areas or communities; or personal interests.
- 3.8 Respect and maintain the confidentiality of confidential business of the Board and School District No. 46 (Sunshine Coast), including individual statements and opinions expressed in closed sessions.
- 3.9 Conduct themselves in a manner that represents the Board and School District No. 46 (Sunshine Coast) in a positive light, taking no action that compromises, or will compromise, the Board and its decisions.
- 3.10 Recognize that any interactions they have as individuals with staff, the public, press or other entities lack board authority; and always clarify, within reason, that personal, individual opinions do not reflect the corporate position of the Board.
- 3.11 Refrain from getting involved in or expressing judgments on any school-level disputes or concerns, but listen to complainants and refer them to the district's "How to Communicate with Us", Regulation 5350.
- 3.12 When appointed to a liaison position, faithfully keep apprised of any concerns or circumstances of the particular school, PAC or external organization that are relevant to the Board, and report them to the Board Chair for the arrangement of appropriate discussion, decision or delegation.
- 3.13 Share any materials or ideas gained from external professional development activities with the Board.
- 3.14 Carry out their fiduciary duty to vote on every motion before the Board, expressing their opinions during Board debate, but always abiding by majority decisions of the Board.

- 3.15 Make no disparaging remarks or accusations, in or out of Board meetings and including in election campaigns, about other members of the Board or their opinions, nor about Board employees.
- 3.16 Disclose the nature of any conflict of interest to the Board, and avoid exerting any influence on any school district issue when in conflict of interest—as defined by legislation, policy or personal declaration—including absenting oneself from discussing or voting on issues when in a conflict of interest.
- 3.17 Refrain from sitting on the board or executive of any corporation or organization that receives funding from School District No. 46 (Sunshine Coast).
- 3.18 Refrain from sitting on any specific school-related or program-related group in the district, including Parent Advisory Councils except as a liaison from the Board.
- 3.19 Comply with Policy 3 (Role of the Trustee), and all policies and bylaws of the Board of School District No. 46 (Sunshine Coast).

7 TRUSTEE DONATIONS

In recognition of Policies 3, 3.7, 3.12 and 3.15, the Board of School Trustees of School District No. 46 (Sunshine Coast) believes that for effective and ethical governance, the office of trustee must be clear of any perception of favouritism or conflict of interest; and furthermore that our schools, programs, employees and students must be clearly separated from individual political or personal interests. Consequently, the Board of Trustees of School District No. 46 (Sunshine Coast) supports individual trustees making general, anonymous, un-targeted donations to the school district as a whole.