



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

POLICY COMMITTEE

AGENDA

February 23, 2016 from 11:30-1:00 p.m.
School Board Office – Gibsons, BC

1. Sections 3.18 and 3.19 of Policy 3 – Role of the Trustee
2. Policy 7 – Trustee Donations

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~~ Subject to the provisions of 3.16, and if in attendance, carry out their fiduciary duty to vote either positively or negatively 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~~ by leaving the meeting and not taking part in the discussion and vote ~~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).

Board Policy: December 2010
Revised: November 2013, November 2014

Information for Policy Committee Meeting
Tuesday, February 23, 2016

Policy 3 - Role of the Trustee

Section 3.17

This section was discussed at the Policy Committee meeting held on January 26, 2016. After considering input from trustees and other attendees at that meeting, I offer the following comments.

The subject of conflict of interest came up in that discussion regarding whether a trustee serving on the Board of Directors of a Community School Board is in a conflict of interest. Attached is a copy of the section of the School Act that governs conflict of interest in regard to school trustees, specifically

Part 5 – Conflict of Interest, Section 58 – Duty of Trustee. I ask that everyone review this section prior to the Policy Committee meeting.

As to the subject of funding provided to the Community Schools from the School District's annual budget, please note that this funding comes from the Community Link funding that the School District receives from the Ministry of Education. This is targeted funding, to be used to support vulnerable students, and the distribution of this funding is determined by the Secretary Treasurer and the Superintendent, not by the Board of Education. In my 13 years as a school trustee, the Board has never been consulted on how this funding is distributed. Should a discussion of this funding ever come before the Board, it would be the duty of any trustee involved with a Community School, in any capacity, to recuse themselves from this discussion. In closing my comments, I remind the Board that it has no authority to dictate to other organizations or societies who can serve on their Boards.

Section 3.18

I repeat my earlier position that this section is in conflict with the School Act, specifically Division 2 – Parents, Section 7, Item (c). Any parent or guardian of any student enrolled in our schools is, by law, a member of the Parents' Advisory Council at their child's school. I recommend that we amend or remove this section of our policy.

Section 3.19

I see no purpose in this section. The purpose of this section is already covered in the opening statement of Policy 3. As trustees are governed by the School Act, any action brought against a trustee regarding their conduct as a trustee must comply with the relevant sections of The School Act. I recommend that this section be removed.

Section 3.4

Now that the Board has confirmed that Section 3.10 applies equally to the Chair of the Board, I recommend that in Section 3.4, the words “through the Board Chair” be removed as this limits the right of a trustee to bring information to the attention of the Board and/or senior administration. The wording could be amended to read “the Board, the Board Chair and/or senior administration.”

SCHOOL ACT

- (a) an interest that a trustee must disclose under section 5 (1) of the *Financial Disclosure Act*, or
 - (b) an interest in shares in a corporation carrying more than 10% of the votes for the election of the directors of the corporation, other than an interest by way of security only;
- "court" means the Supreme Court;
- "meeting" includes a meeting of a committee of trustees;
- "pecuniary interest" means, with respect to a trustee, an interest in a matter that could monetarily affect the trustee and includes an indirect pecuniary interest referred to in section 56;
- "parent" includes a person whom the trustee has demonstrated a settled intention to treat as a member of his or her family;
- "senior officer" means a senior officer as defined in the *Business Corporations Act*;
- "spouse" subject to subsection (2), means a person who
- (a) is married to a trustee, or
 - (b) is living with a trustee in a marriage-like relationship, and has lived as such for a continuous period of at least 2 years.
- (2) A person is not a spouse for the purposes of this Part if
 - (a) the person is separated and living apart from the trustee, and
 - (b) the person and the trustee
 - (i) have entered into a written agreement under which they have agreed to live apart, or
 - (ii) are subject to an order of the court recognizing the separation.
- [2003-70-246, effective Mar 29/04, am 301-1-16-42, effective Nov 24 11]

Indirect pecuniary interest

56 For the purposes of this Part, a trustee has an indirect pecuniary interest in any matter in which the board is concerned if

- (a) the trustee or the trustee's nominee
 - (i) is a shareholder in or a director or senior officer of a corporation that does not offer its securities to the public, or
 - (ii) has a controlling interest in or is a director or senior officer of a corporation that offers its securities to the public,
- and the corporation has a pecuniary interest in the matter, or
- (b) the trustee is a partner of a person, is a member of a firm or is in the employment of a person or firm that has a pecuniary interest in the matter.
- [2007-20-12, effective July 1/07, BC Reg 229/07]

Deemed pecuniary interest

57 For the purposes of this Part, the pecuniary interest of a spouse or of a parent or child of the trustee is, if known to the trustee, deemed to be also the pecuniary interest of the trustee.

Duty of trustee

58 (1) If a trustee has any pecuniary interest in any matter and is present at a meeting of the board at which the matter is considered, the trustee

SCHOOL ACT

- (a) must at the meeting disclose his or her pecuniary interest and the general nature of the pecuniary interest,
 - (b) must not take part in the discussion of or vote on any question in respect of the matter, and
 - (c) must not attempt in any way, whether before, during or after the meeting, to influence the voting on any question in respect of the matter.
- (2) If the meeting referred to in subsection (1) is not open to the public, in addition to complying with the requirements of that subsection the trustee must immediately leave the meeting or the part of the meeting during which the matter is under consideration.
- (3) If the pecuniary interest of a trustee is not disclosed as required by subsection (1) by reason of the trustee's absence from the meeting, the trustee must disclose the pecuniary interest and otherwise comply with the requirements of that subsection at the first meeting of the board attended by the trustee after the meeting referred to in that subsection.

Exceptions

- 59** Section 58 does not apply to a pecuniary interest in any matter that a trustee may have
- (a) by reason of the trustee having a pecuniary interest in the matter which is a pecuniary interest in common with electors generally,
 - (b) by reason of the trustee being entitled to receive any indemnity, expenses or remuneration payable to one or more trustees in respect of the matter,
 - (c) by reason only that the trustee is a member of an association incorporated under the *Cooperative Association Act* or a credit union having dealings or contracts in respect of the matter with the board of the school district of which he or she is a trustee, or
 - (d) by reason only of a pecuniary interest of the trustee that is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the trustee.

[2004-18-137, effective Dec 31 04]

Record of disclosure

- 60** (1) If a meeting is open to the public, every disclosure of pecuniary interest and the general nature of it made under section 58 must be recorded in the minutes of the meeting.
- (2) If a meeting is not open to the public, the fact that a disclosure of pecuniary interest was made under section 58, but not the general nature of that interest, must be recorded in the minutes of the next meeting that is open to the public.

Remedy for lack of quorum

- 61** (1) When the number of trustees who, because of this Part, are disqualified from participating in a meeting is such that at that meeting the remaining trustees are not of sufficient number to constitute a quorum, the board may apply to the court without notice to any person for an order authorizing the board to give consideration to, discuss and vote on the matter out of which the pecuniary interest arises.

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.

Suggested edits received:

Policy 7 -donations is clear, succinct and well written. I agree with it on a personal level, as well as seeing how it clearly guides trustee behaviour.

Policy 3 - is likewise clear and well written. It is less succinct.

I suggest the following :

Section 3 -

After the first sentence add "Trustees must be aware that the perception of their behaviour is as important as how they actually behave."

Or words to this effect, which enable trustees to gain awareness of how their behaviour may be perceived.

Then, separate the next two sentences to more clearly defined sections 3.1 to 3.19 as a Code of Conduct.