

**SCHOOL DISTRICT NO. 48 (SEA TO SKY)
EDUCATION**

**205
205.2**

**TRUSTEE PERSONNEL
Conflict of Pecuniary Interest**

The purpose of this policy is to ensure that trustees and the public are aware of the responsibility of trustees to declare pecuniary interest with relation to proceedings of the Board.

1. Definitions according to the *School Act*, Section 55
In this by-law:

"child" includes a person whom the trustee has demonstrated a settled intention to treat as a member of his or her family;

"controlling interest" means

- (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

"senior officer" means a senior officer as defined in the *Business Corporations Act*;

"spouse" means a person who is married to a trustee or a person who is living with a trustee as husband and wife and has lived as such for a continuous period of not less than 2 years but does not include a husband or a wife who is separated and living apart from a trustee and who

- (a) has entered into a written agreement under which they have agreed to live apart, or
- (b) is subject to an order of the court recognizing the separation.

2. Indirect Pecuniary Interest

Section 56 of the *School Act* defines a trustee who has an indirect pecuniary interest in any matter in which the school 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.

3. Deemed Pecuniary Interest

Section 57 of the *School Act*, states that the pecuniary interest of a spouse or of a parent or child of the trustee shall, if known to the trustee, be deemed to be also the pecuniary interest of the trustee.

4. Duty of Trustee

Section 58 of the *School Act* describes the duty of trustees:

- (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
 - (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 shall, 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.

- 5. Subsequent sections of the *School Act* provide direction on Exceptions (Section 59), Record of Disclosure (Section 60), Remedy for Lack of Quorum (Section 61), Application to Court (Section 62), Remedy (Section 63) and Proceedings Voidable (Section 64).