

1 The It is generally the policy of the Transylvania County Board of Education (the “board”) will
2 to provide for the defense of any civil or criminal action or proceeding brought against an
3 employee in his or her official or individual capacity, or both, on account of an act done or an
4 omission so long as all of the following conditions are met.
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- 6 1. The act or omission occurred in the scope and course of employment.
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- 8 2. Defense of the action would not create a conflict of interest between the board and the
9 employee.
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- 11 3. The employee did not act or fail to act because of fraud, corruption, or malice on his or
12 her part.
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- 14 4. All potential liability insurance carriers and/or liability coverage providers have provided
15 written notification to the employee that the carrier(s) and/or liability coverage
16 provider(s) will not provide a defense for the employee.
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18 In order for the board to provide for the defense pursuant to this policy, the employee must
19 provide a written request to the superintendent as soon as possible upon learning of the claim or
20 action and receiving written notice from all potential insurers and/or liability coverage providers
21 pursuant to item 4, above.
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23 The superintendent, with advice from the board attorney, shall make a recommendation to the
24 board as to whether the board will provide legal representation for the employee. Board
25 approval of an employee’s request to provide legal representation will only relate to the initial
26 trial or proceeding. The employee must make an additional request in writing to the board for
27 legal representation at each subsequent stage of the appeal of the action or proceeding.
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29 If an employee’s request for legal representation in any civil or criminal action or proceeding is
30 denied and subsequently the employee is found not to be liable or guilty, the board may
31 reimburse the employee a reasonable attorney’s fee upon written request of the employee.
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33 To protect its own financial resources, the board will provide for sufficient liability coverage for
34 personnel, workers’ compensation coverage, and unemployment compensation insurance.
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36 By enacting this policy, the board does not intend to create any contractual rights between the
37 board and any employee and this policy should not be construed to create any contract term or
38 substantive right whatsoever. Further, this policy should not be construed to waive any claim of
39 immunity that the board might otherwise be entitled to make.
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41 Legal References: G.S. 115C-43; *Wray v. City of Greensboro*, 370 N.C. 41 (2017)
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43 Cross References:
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45 Adopted: April 18, 2016

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47 Revised: [DATE]

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