



CHAPTER 5

Board Representation, Trustee Elections, and Vacancy Information

Municipal and School Board Elections

Where trustees are elected, the process is governed by the *Education Act* and the *Municipal Elections Act, 1996* (MEA).

School board trustees are elected every four years during municipal and school board elections. Voters must choose which of the four school board systems they will support, subject to certain restrictions. This means that each voter can elect a trustee to only one of the four school board systems in a jurisdiction: English public, English

Catholic, French public, or French Catholic. Voters who own residential property in more than one school board district may vote in each of the school board districts in which property is held.

Pre-Election

How the Number of Trustees is Determined and Distributed

Prior to each regular election, the board of trustees of each district school board must distribute the positions of the members to be elected across the board's area of jurisdiction.

The provisions governing the number of elected trustees on district school boards and their distribution over a board's territory are found in section 58.1 of the *Education Act*, and in Ontario Regulation 412/00: Elections to and Representation on District School Boards. The process is referred to as trustee determination and distribution.

The *Act* sets the number of elected trustee positions on a district school board at the number that was determined by the board for the 2006 school board regular election, with the following exceptions:



- For a school board whose number of elected trustees was increased by order of the Minister following the isolate board mergers which took place in 2009, the total number of elected trustees includes the additional position(s) ordered by the Minister.
- A board may, by resolution, reduce its number of elected trustees to no fewer than five.
- A board that has experienced a demographic or geographic change may use the formula in Ontario Regulation 412/00 to recalculate its number of elected trustees. [s. 58.1 (10.0.1)]; however

the total number of elected trustees on a school board cannot exceed 22.

Before each regular election, district school boards must allocate their elected trustee positions over their area of jurisdiction. They do so by combining municipalities and wards in their area of jurisdiction into a number of geographic areas and allocating their trustee positions to these areas.

In boards where there is more than one municipality, the board must pass a resolution that either:

- Designates one or more municipalities as low population municipalities

and directs that an alternative distribution of members be done, or

- States that the board has decided not to designate any municipality as a low population municipality.

Designation of low population municipalities allows boards to provide greater representation to rural or other areas within the board's jurisdiction than would otherwise be afforded by a strict representation-by-population calculation.

The "determination and distribution" process described above must be completed by boards by March 31 in a regular election year. By April 3, boards

must provide a report to the Minister of Education, to the election clerks for all municipalities within the board's jurisdiction, and to the secretary of every other school board that is wholly or partially within the board's area of jurisdiction.

Information on the trustee determination and distribution process, including the detailed reporting requirements can be found in the 2018 Trustee Determination and Distribution Guide for Ontario District School Boards at www.edu.gov.on.ca/eng/trustee-elections/.

Additionally, the Ontario Education Services Corporation (OESC) has created a calculator to assist school boards with the determination and distribution of their elected trustee positions. This can be found at <http://www.oesc-cseo.org/en-ca/Pages/TrusteeCalculator.aspx>.

School Board Trustee Qualifications

Trustee candidates need not have a background in education. However, the following skills and experience would be assets for potential trustee candidates:

- Basic understanding of official meeting procedures and governance policies

- Basic understanding of a trustee's role as member of a Board
- Willingness to learn.

A candidate for a school board must, upon nomination, be a qualified municipal elector and fulfil all of the following requirements:

- A resident within the jurisdiction of the board
- A supporter of the board*
- A Canadian citizen
- At least 18 years old
- Roman Catholic (if running for a separate school board)
- French language rights** (if running for French language school board)
- Not legally prohibited from voting
- Not disqualified by any legislation from holding school board office.

* "Supporter" refers to the individual's property tax support for one of the four publicly funded school systems.

** "French-language rights holder" is set out in section 23 of the Canadian Charter of Rights and Freedoms and refers to the right of citizens whose first language is French to receive educational instruction in French.

A candidate who is qualified and a resident in the jurisdiction of the school board can seek nomination for any geographic area

within the jurisdiction of the board. If nominated, a candidate must remain qualified throughout the election and, if elected, throughout the term of office. School board candidates should confirm they have the qualifications described in s. 219 of the *Education Act*. It is the responsibility of the candidate to determine whether he or she is qualified to be elected to and hold office.

A candidate for school board office cannot be a clerk, deputy clerk, treasurer or deputy treasurer of a municipality within the jurisdiction of a board. The following persons are disqualified from being elected to school board office:

- Any person not eligible to vote in the municipality
- An employee of a school board unless he or she takes an unpaid leave of absence before being nominated, resigns, if elected to the office
- A judge of any court
- A member of the Legislative Assembly of Ontario (MPP), a Senator or a member of the House of Commons (MP)
- An inmate of a penal or correctional institution under sentence of imprisonment.

An employee of a school board who wishes to run for office on any school board must take an unpaid leave of absence prior to being nominated. If elected, the employee must resign. A person may not be employed by one school board and hold office on a different school board. More information for trustee candidates and prospective candidates can be found by reading *Making a Difference for Kids: Running for Election as a School Board Trustee*, which is available online at <http://ontarioschooltrustees.org>.

Term of Office

The term of office for newly elected members begins on December 1, 2018, and ends on November 14, 2022. Boards are required to hold their first meeting within seven days of the new term commencing. It is at this first meeting that a chair is elected, and possibly a vice-chair and committee members. The members of a board remain in office until their successors are elected and the new board is organized [s. 220 (1)].

The 2022-2026 Term of Office will begin on November 15, 2022 and end on November 14, 2026.

Key Dates — 2018 Municipal and School Board Elections

Nomination and Campaign Period Begins	May 1, 2018
Nomination Day (Last Day to be Nominated)	July 27, 2018
Final Day for Withdrawal of Candidacy	July 27, 2018
Voting Day	October 22, 2018
School Board Term Begins	December 1, 2018
Campaign Period Ends	December 31, 2018
Financial Filing Deadline	March 29, 2019
School Board Term Ends	November 14, 2022

Post-Election

This section of the chapter addresses questions that may arise after the votes have been tallied on Election Day or once the term of office has begun.

Tied votes

If two or more candidates get the same number of votes and they cannot all be elected, there is an automatic recount. The recount must be held within 15 days of the clerk declaring the results of the election. If you are one of the candidates in the tie, you are entitled to be present at the recount.

If the recount shows that there is still a tie, then the legislation states that the clerk will choose the winner by lot. This means putting the names of the tied candidates

into a hat (or other suitable container) and drawing the name of the winner.

Recounts

The *Municipal Elections Act, 1996* requires an automatic recount only if the votes are tied.

A municipal council or school board may have a policy in place that sets out other specific circumstances under which the clerk must conduct an automatic recount. For example, a council may decide that if two candidates are within 10 votes of each other, an automatic recount will be held. The policy must be adopted at least 60 days before voting day.

A municipal council or school board may also order a recount within 30 days after the clerk has officially

declared the results of the election. If you feel there should be a recount, you must either persuade council (or the school board) to order one or you may apply to the Superior Court of Justice to persuade a judge to order a recount. This application may be made by any eligible elector, and must be made within 30 days of the clerk declaring the results of the election.

Recounts must be conducted in the same way that the votes were originally counted, unless the recount is ordered by the court. For example, if

the votes were counted by a vote tabulator, they may not be counted by hand during the recount.

If the recount is ordered by the court, the judge may order that the votes be counted in a different manner if the judge believes that the way the votes were counted the first time was an issue.

Vacancies

A trustee does not have to resign in order to run as a candidate for another office, as long as he or she continues to meet attendance requirements

for board meetings. If a trustee chooses to resign in order to become a candidate for another office, he or she may simply file a statement to that effect with the secretary of the board. In this situation, the resignation becomes effective on November 30 or the day before the other office commences, whichever is earlier [s. 220(4)].

If the trustee is unsuccessful in their bid for the other office, and they have resigned, they cannot resume the seat on the school board without being re-elected or, in some cases, appointed.





Under the *Education Act* [s. 228(1)], a trustee's seat is automatically vacated if the trustee:

- Is convicted of an indictable offence
- Is absent – either in person or electronically – from three consecutive regular board meetings (unless the absence was authorized by a resolution entered into the minutes)
- Ceases to hold the qualifications required to be a trustee
- Becomes disqualified to act as a trustee
- Fails to be physically present in the meeting room of the board for at least three regular board meetings in each 12-month period beginning on December 1.

Filling Vacancies

All vacancies on the board must be filled, unless the vacancy occurs within one month of the next municipal election [s. 224(a)]. A vacancy that occurs after the election but before the new board is organized shall be filled after the new board is organized [s. 224(b)]. A school board has 90 days to decide whether to fill the vacancy by appointment or by holding a by-election.

Appointment: If a majority of the trustees remain in office, the remaining trustees can appoint a qualified person within 90 days of the position becoming vacant. If a board decides to fill a vacancy by appointment, they must appoint a person who is

eligible to serve on the board and who is willing to accept the appointment.

The legislation does not set out any other criteria. It is up to the board to determine how they will decide who to appoint. Different approaches include:

- Appointing the candidate who came second in the last election
- Inviting interested persons to apply for the position
- Offering the appointment to a member of the community.

By-election: The board can, by resolution, require that a vacancy be filled in a by-election held in accordance with the *Municipal Elections Act, 1996*, if the vacancy occurs:

- In a year where there is no election under the *Municipal Elections Act, 1996*
- Prior to April in a year where there is an election under the *Municipal Elections Act, 1996*
- After the school board election, in a year where there is an election under the *Municipal Elections Act, 1996*.

If a majority of the trustees does not remain in office following a vacancy, a by-election must be held.

Once the school board has decided to hold a by-election, the municipal clerk is in charge of conducting the by-election. The board does not decide when nomination day or voting day will be. These dates are determined by the clerk.

Nominations open when the school board has passed a resolution ordering the by-election and sent it to the clerk who will conduct the by-election. Nominations close at 2 p.m. on nomination day.

The clerk must set the nomination day within 60 days after the by-election is ordered by council, the board or the court. Voting day takes place 45 days after nomination day.

In a by-election for a trustee position, the following persons cannot run unless their present term of office is due to end less than two months after the nominations close, or unless they resign from their present office before the nominations close:

- A trustee of another district school board or school authority
- A member of the council of a county or municipality included in the board's area
- An elected member of a local board of a county or municipality included in the district school board's area.

Subsection 7 (2) of the *Municipal Elections Act* states that municipalities bear the costs of a regular election, but local boards bear the costs of by-elections under the *Act*. The Ministry of Education provides funding to school boards in cases where they are legally required to hold a by-election.

Additional Resources

Prior to each election, the Ministry of Municipal Affairs, updates and produces resources for candidates and voters. These include:

- [2018 Voters' guide for Ontario municipal council and school board elections](#)
- [2018 Candidates' guide for Ontario municipal council and school board elections](#)
- [2018 Guide for third party advertisers - Ontario municipal council and school board elections](#)