

School Board Candidate Vacancy Information – Post Nomination Deadline

Municipal Council and School Board elections take place on
Monday, October 24, 2022

Nomination Deadline

The deadline to file a nomination to be a council or school trustee candidate was Friday, August 19, 2022 at 2 p.m. The clerk had until 4 p.m. on Monday, August 22, 2022 to certify or reject your nomination. The clerk must be satisfied that you are eligible to run in order to certify your nomination. If your nomination is not certified, your name will not appear on the ballot.

Note: There have been some municipalities that extended the filing deadline to Wednesday, August 24, as allowed under the provisions of subsection 33(5) of the *Municipal Elections Act* (MEA).

Exceptions for additional nominations

33(5) If the number of nominations filed for an office and certified under section 35 is less than the number of persons to be elected to the office, additional nominations may be filed between 9 a.m. and 2 p.m. on the Wednesday following nomination day. 1996, c. 32, Sched., s. 33 (5); 2009, c. 33, Sched. 21, s. 8 (16).

Trustee Acclamations

Once the clerk has confirmed nominations, they can also determine acclamations. If the number of certified candidates for an office is the same as or less than the number to be elected, the clerk shall immediately declare the candidate or candidates elected by acclamation. (MEA section 37)

Trustee Vacancies After Acclamations and Elections

- The *MEA* and *not* sections 221 and 224 of the *Education Act* applies to fill a vacancy on a school board if no trustee has been acclaimed or elected. The *Education Act's* section 221 applies when a seat becomes vacant *before the end of the member's term*. In the case at hand, the seat is vacant because no one was acclaimed or elected to it in the first place.
- If the **majority of positions are not filled** on a school board after the declaration of acclamations and election of candidates, a by-election must be held (*MEA* s.37(3) 1.).
- If a **majority of the positions are filled** the school board may appoint a person to fill the vacancy and s.38 of the *MEA* applies. (*MEA* s.37(3)2.). If it is not possible to fill the vacancies under s.38 then a by-election shall be held.
- If a by-election is required to be held, it will only be held in the geographic area in which the number of candidates declared elected is insufficient (*MEA* s.37(3.1)).

Process to Appoint to Fill Vacancy on School Board

- Section 38(1) of the *MEA* says that the *candidates declared elected* to the school board may appoint a person to fill the vacancy at a meeting of members called for that purpose. Therefore, this would be the new board who fills the vacancy. There is no time

period specified in the *MEA* for when this meeting must be called. However, for many reasons, including, ensuring representation for the geographic area affected by the vacancy and developing from the start of the trustees' new term co-operation among board members in providing good governance, it would be best to fill the vacancy as soon as possible. As well, this would permit the newly appointed trustee to participate in trustee orientation and good governance training with the other newly elected and acclaimed members of the board.

OPSBA Recommendations:

- Boards may hold their first meeting as they usually do i.e., before November 22, 2022, and elect their Chair and Vice-Chair. Then the new board would decide on the process to appoint a trustee to fill the vacancy taking into account Sections 38(2) to (5) of the *MEA*. After that the new board would call a meeting to actually appoint a trustee.
- The new board would have to be *organized* before they could call the meeting to appoint a trustee. This means holding the first meeting and trustees making the declaration.
- When filling a vacancy by appointment, a board must appoint a person who is qualified to be elected as a member of a school board and who has consented to accept the office if appointed.

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.

The process that a board decides to use should be easily understood and communicated with the board's community so that all interested community members can apply.