

GOVERNANCE PROCEDURE	
Adopted	M22-xxxx
Revised	November 2022
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FILLING A TRUSTEE VACANCY

1. Policy

This Governance Procedure of the Board of Trustees is made in accordance with the *Education Act* RSO 1990 c E.5, the *Municipal Elections Act 1996*, SO 1996, c 32, Sc and the HDSB Trustee Operations Policy, and governs the process to be followed by the Board of Trustees if a vacancy occurs during their term.

2. Procedure to fill a Trustee vacancy

A vacancy shall be filled by either a by-election, or appointment by the Board of Trustees, in accordance with this Procedure.

Where a vacancy occurs within one month before the election, it shall not be filled.¹

A. Majority of elected members do not remain in office

If a Trustee vacancy creates a situation where a majority of the elected members do not remain in office, a by-election will be held in accordance with section 221(1) (b) of the *Education Act* and section 65 of the *Municipal Elections Act*. The Secretary of the Board shall promptly send a notice of the same to the appropriate municipal clerk.

B. Majority of elected members remain in office

If a Trustee vacancy creates a situation where a majority of the elected members remain in office, the remaining elected members may by resolution elect to fill the vacancy by:

- i. appointing a qualified person to fill the vacancy within 90 days of the vacancy;² or
- ii. calling a by-election, provided that the vacancy has occurred:
 - (a) in a year in which no regular election is held under that Act;
 - (b) before April 1 in the year of a regular election; or
 - (c) after the new board is organized in the year of a regular election).

The Secretary of the Board shall promptly send a certified copy of the resolution to the appropriate municipal clerk.³

¹ Education Act, s.224(a)

² Education Act, s.221(1)(a)

³ Education Act, s.221(3)

3. Appointment Process

Where the Board of Trustees has resolved to fill a vacancy by appointment, it shall comply with the following process:

- i. The Board shall ensure that all candidates interviewed for appointment meet the qualifications outlined in s.219 of the *Education Act*.
- ii. All qualified applicants will be interviewed at a special meeting of the Board called for that purpose.⁴
- iii. Trustees may suspend the application of the Board's rules of procedure as outlined in the Board Governance By-law, in favour of the process outlined herein.
- iv. In accordance with the applicant's preference, may be interviewed:
 - in-person at the Board Office; or
 - by video conference.
- v. Trustees may participate in interviews in person or by video conference.
- vi. Trustees will only be eligible to participate in the selection of an appointee if they have been present in person or by videoconference for all interviews.

4. Interviews

a. General

- i. Using a prepared interview schedule, the Chair will invite each applicant in turn to come forward to the presentation area.
- ii. Each candidate will be given the first question 30 minutes prior to their scheduled interview.
- iii. Each of the subsequent questions will be displayed on the screen so that the applicant can refer to them as they answer. There will be no paper copies.
- iv. Each applicant will be given the same amount of time for their interview. The length of each interview will be determined by the Secretary in consultation with the Superintendent of Human Resources prior to scheduling the interviews.
 - The clock will be displayed.
 - There will be no time limit per question. Applicants will be reminded to pace themselves accordingly.
 - Applicants may provide supplementary information at the end of the interview if there is still time remaining.

⁴ Municipal Elections Act, s.38(1)

- v. Trustees may ask questions of clarification of the applicant if there is still time remaining.

b. Interview Format

- i. The interview process will be scripted to ensure all applicants are given the same information.
- ii. The format of each interview will be as follows:
 - Welcome and Opening Remarks (Chair)
 - Questions and Responses (Applicant)
 - Additional Information - if time permits (Applicant)
 - Thank you and Closing Remarks (Chair)
- iii. The interview questions should cover a wide range of topics during the interview, including but not limited to:
 - Public education in Ontario;
 - Personal experience (e.g. school council, board committees, etc.);
 - Professional experience;
 - Affected municipality.

5. Deliberations and Voting

- i. Election of an appointee to fill a vacancy shall be conducted by the Secretary of the Board.⁵
- ii. Following all interviews, the Chair will invite each Trustee individually to share their impressions of the Applicants' responses, resume, and Application Form.
- iii. After all Trustees have had the opportunity to speak, the Secretary will ask each Trustee to record the name of their preferred applicant for appointment and submit it via ballot or email.
- iv. The Secretary will tabulate the votes.
- v. If one applicant has received votes from more than 50% of participating Trustees, the Secretary will announce that one applicant has been determined as the appointee.
- vi. If none of the applicants have received enough votes to constitute more than 50% of the votes cast, the applicant with the fewest votes will be removed from consideration. If two or more persons received the fewest votes, the Secretary shall choose the person to be removed by lot.
- vii. The procedure as outlined above will be repeated until one applicant has received more than 50% of the votes cast.

⁵ Municipal Elections Act, s. 38(3)

- viii. Where only two candidates remain and the vote ends in a tie, the names of the tied applicants will be placed in a ballot box and one name will be drawn. The name drawn will be the successful applicant.⁶

6. Ratification and Oath of Office

- a. The appointed person will be confirmed by resolution of the Board.
- b. The appointed person will be sworn into office on or before the next public meeting of the HDSB.

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⁶ Education Act, s.227