

Filling a Trustee Vacancy

Governance Procedure

Adopted: November 2022
Revision Date: December 2024
Responsibility: Board of Trustees

1. Policy

This Governance Procedure is made in accordance with the *Education Act*, R.S.O. 1990, c. E.2, the *Municipal Elections Act*, 1996, S.O. 1996, c 32, Sched. and the HDSB Trustee Operations Policy, and governs the process to be followed if a vacancy occurs.

2. Procedure

Unless otherwise determined by legislation, a Trustee who has decided to vacate their office as a member of the Board of Trustees (the “Board”) shall provide formal written notice to the Chair and Vice-Chair confirming their vacancy.

A vacancy shall be filled by either a by-election or appointment by the Board.

If the office of a Trustee becomes vacant before the end of the term:

- a) the Board shall appoint a qualified person to fill the vacancy within 90 days after the office becomes vacant, if the majority of elected Trustees remain in office, in accordance with the *Education Act*.¹ No Board resolution is required.

i) Optional By-Election in the First 2 Years

Despite section 2(a), in the first two years of the Board’s term of office, the Board may by resolution elect to fill the vacancy by calling a by-election.

- b) a by-election shall be held to fill the vacancy, if the majority of elected Trustees do not remain in office in accordance with section 221(1) (b) of the *Education Act*² and section 65 of the *Municipal Elections Act*.³

¹ Education Act, s.221(1)(a)

² Education Act, s.221(1)(b)

³ Municipal Elections Act, s.65

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Where a vacancy occurs within one month before the next election, it shall not be filled.⁴

3. Appointment Process

Where the Board has resolved to fill a vacancy by appointment:

- a) The Board shall ensure that all applicants interviewed for appointment meet the qualifications outlined in s. 219 of the *Education Act*.
- b) All qualified applicants will be interviewed at a special meeting of the Board called for that purpose.⁵
- c) 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.
- d) The applicant may choose to be interviewed in person at the Board Office or by video conference.
- e) Trustees may participate in the interview process in person or by video conference.
- f) Trustees will only be eligible to participate in the selection of an appointee if they participated in all the interviews.

3.1 Interviews

- a) General
 - i) Using a prepared interview schedule, the Secretary 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.

⁴ Education Act, s.224(a)

⁵ Municipal Elections Act, s.38(1)

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- 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.
 - 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.

3.2 Deliberations and Voting

- a) Following all interviews, the Board will move into a Private session and the Chair will invite each Trustee individually to share their impressions of each applicant's responses, resume, and application form.

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- b) After all Trustees have had the opportunity to speak, the Chair will ask each Trustee to record the name of their preferred applicant for appointment and submit it via ballot or email.
- c) Election of an appointee to fill a vacancy shall be conducted by the Secretary of the Board.⁶
- d) The Secretary will tabulate the votes.
- e) If one applicant receives votes from more than 50% of the participating Trustees, the Secretary will provide the results to the Chair who will announce that applicant as the appointee.
- f) If no applicant receives more than 50% of the votes cast, the applicant with the fewest votes will be removed from consideration. If two or more applicants receive the fewest votes, the Secretary shall choose the person to be removed by lot.
- g) This procedure will be repeated until one applicant receives more than 50% of the votes cast.
- h) 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.⁷

4. Ratification and Oath of Office

- a) Immediately following the Private session, the appointed person will be confirmed by resolution of the Board in Public session.
- b) The appointed person will be sworn into office on or before the next public meeting of the Board.

⁶ Municipal Elections Act, s. 38(3)

⁷ Education Act, s.227

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Related Statutes

Education Act, R.S.O. 1990, c. E.2

Municipal Elections Act, 1996, S.O. 1996, c. 32

Related Board Policies and Procedures

Trustee Operations Policy

Governance Procedure Due for Review: December 2028

Revision History

- December 2024 - Comprehensive Review: section 2 updated to limit the option of calling a by-election to the first 2 years of the Board's term, merging of sections 3-5 under new section 3, and clarification of language throughout.