

we envision

2010

School Board Elections Information Package



**Government
of Alberta** ■

Alberta ■

PREFACE

The *Local Authorities Election Act, Revised Statutes of Alberta 2000, C.L-21*, provides a standardization of election procedures for all local authorities. Local authorities include villages, towns, counties, municipal districts, and school boards. The *Local Authorities Election Act* is available from the Queen's Printer at Alberta Education's website: http://www.qp.alberta.ca/570.cfm?search_by=alpha&letter=L

This information package has been developed to assist school boards to conduct an election. It is important to note that this information package is a reference guide only and must be used in conjunction with the *School Act* and the *Local Authorities Election Act* to ensure knowledge of precise wording and content.

Whenever the *Local Authorities Election Act* directs a jurisdiction to contact or advise the Minister or Deputy Minister, school boards should contact the Business Operations and Stakeholder Support Branch of Alberta Education.

Inquiries regarding local authority elections may be directed as follows:

Business Operations and Stakeholder Support Branch
8th Floor, Commerce Place
10155 – 102 Street
Edmonton, Alberta
T5J 4L5
Phone: 780-427-2055
Email: edc.2010election@gov.ab.ca

OR

Advisory Services and Capacity Building Organizational Unit
Alberta Municipal Affairs
17th Floor, Commerce Place
10155 – 102 Street
Edmonton, Alberta
T5J 4L4
Phone: 780-427-2225

NOTE: All section references in this document are to the *Local Authorities Election Act*, unless otherwise indicated.

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IMPORTANT DATES

2010 General Election

Thursday, August 6	Last day to order or prepare nomination forms and supplies.
Monday, September 6	Provide for first notice of nomination day (section 26).
Monday, September 13	Provide for second notice of nomination day (section 26).
Monday, September 20	Nomination Day (section 25).
Wednesday, September 22	Order election materials.
Monday, September 27	Prepare notice of advance poll (section 74).
Monday, October 4	Provide for the first notice of election day (section 35).
Monday, October 11	Provide for the second notice of election day (section 35).
Saturday, October 16	Last day for holding advance poll (section 73).
Monday, October 18	Election Day (section 11).
Wednesday, October 20	Last day for candidate to request a returning officer to recount ballots (section 98).
Friday, October 22	The returning officer shall declare the election results at noon (section 97).
Saturday, November 6	Last day for an elector to request a judicial recount (section 103).
Monday, November 15	Last day for school board to hold an organizational meeting (section 64 – <i>School Act</i>).
Monday, November 29	Election material shall be destroyed unless otherwise ordered by a judge (section 101).

AUGUST

2010

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6 Order nomination forms/supplies	7
8	9	10	11	12	13	14
15	16	17	18 Last day for bylaw on Content of ballot	19	20	21 Last day for bylaw to require candidates' deposit
22	23	24	25	26	27	28
29	30	31				

SEPTEMBER

2010

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5	6 Provide for first notice of nomination day	7	8	9	10	11
12	13 Provide for second notice of nomination day	14	15	16	17	18
19 Last day for bylaw regarding Death of Candidate	20 Nomination day	21	22 Order election materials	23	24	25
26	27 Prepare notice of advance poll	28	29	30		

OCTOBER

2010

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4 Provide for the first notice of election day	5	6	7	8	9
10	11 Provide for the second notice of election day	12	13	14	15	9 Last day for holding advance poll
17	18 Election Day	19	20 Last day for candidate to request recount by returning officer	21	22 Returning officer declares election results at noon	23
24	25	26	27	28	29	30
31						

NOVEMBER

2010

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6 Last day for an elector to request a judicial recount
7	8	9	10	11	12	13
14	15 Last day to hold Organizational Meeting	16	17	18	19	20
21	22	23	24	25	26	27
28	29 Destroy election materials	30				

CHANGES TO LEGISLATION THAT WILL IMPACT ELECTIONS

Local Authorities Election Act

The *Local Authorities Election Act* (the *Act*) was amended in the Spring 2010 session of the Alberta Legislature with Bill 9, *the Local Authorities Election Statutes Amendment Act*. Furthermore section 261 of the *School Act* states that all general elections held pursuant to the *School Act* are to be governed by the *School Act* and the *Local Authorities Election Act*.

There are amendments to sections 48 and 147 of the *Act*. The highlights of Bill 9 are as follows:

- Clarifies residency rules in that a person may be a resident of only one place at a time for the purpose of voting;
- Clarifies that a person shall designate their residence in accordance with the following factors in order of priority
 - the address shown on the person's driver's licence or an identification card issued by the Government of Alberta;
 - the address to which the person's income tax correspondence is addressed and delivered;
 - the address to which the person's mail is addressed and delivered.
- Clarifies that a volunteer's services where the volunteer received no compensation either directly or indirectly, is not deemed a contribution for purposes of disclosure;
- Clarifies that a candidate whose campaign is self funded has a funding cap of \$10,000 and is not required to open a bank account or file a disclosure statement unless he or she had a surplus from a previous election;
- Clarifies that for contributions from any person (other than the candidate), as well as any corporation, trade union or employee organization - a bank account is only required if the total amount of contribution(s) is greater than \$5,000;
- Campaign contributions limits are set at \$5,000 per year; and
- Amends the timelines for provisions requiring candidate surplus trust funds to be held by the municipality. It is proposed that these guidelines would come into effect December 1, 2011. This amendment would allow time for affected parties to comply with the new rules.

IMPORTANT ISSUES TO BE CONSIDERED IN SCHOOL TRUSTEE ELECTIONS

Qualifications of Trustees

Section 22, Section 22(1.1) provides that an employee of a school jurisdiction, charter school or private school is not eligible to be nominated as a candidate for election on a school board, on nomination day unless that person is granted a leave of absence under Section 22. The employee may apply for a leave of absence without pay to his or her employer in order to run for trustee in any school jurisdiction. An employee who applies for a leave of absence without pay must do so on or after July 1st in the year of an election but before the employee's last working day prior to nomination day. A school jurisdiction, charter school or private school must grant every application for leave it receives.

Depending on whether a candidate is elected or not Sections 22(8) to (12) may apply.

Pecuniary Interest of Trustees

Section 80 of the *School Act* defines in some detail what constitutes a pecuniary interest. The pecuniary interest of the trustee's spouse or adult interdependent partner is the pecuniary interest of the trustee.

An adult interdependent partner is defined in the *Adult Interdependent Relationships Act* (s. 3) as an individual with whom a person has lived in a relationship of interdependence for a continuous period of not less than three years, or of some permanence, if there was a child of the relationship by birth or adoption, or the person entered into an adult interdependent partner agreement.

In addition, in accordance with section 81 of the *School Act* each trustee must now file a statement with the secretary of the board showing: the names and employment of the trustee and the trustee's spouse and children, the names of the corporations, partnerships, firms, governments or persons in which the trustee has a pecuniary interest and the names of the corporations, partnerships, firms, governments or persons in which the trustee's spouse or children, under 18 years of age, have a pecuniary interest.

Residence

There are two distinct dimensions to determining a person's place of residence, as determined in Section 48 of the *Local Authorities Election Act*.

The first dimension is physical residence – a resident who physically resides in the geographical area contained in the school jurisdiction. The second is residence by faith. When Alberta became a province, Section 17 of the *Alberta Act, 1905* affirmed the right of minority faith communities—Protestant or Roman Catholic—to form a separate school district. This provision is further affirmed in Section 29 of the *Canadian Charter of Rights and Freedoms*, which preserves existing constitutional rights. This right is also enshrined in our law as a result of Section 93 of the *British North America Act, 1867* (now the *Constitution Act, 1981*).

When a separate school district is formed, it is amalgamated with an existing separate school jurisdiction within the relevant separate school region. The persons of the same faith as those who formed the separate school district become residents of the separate school district and are not residents of the public district. Furthermore, when a separate school district exists and the faith of an individual is the same as the faith of those who established the separate school district, the property of that individual is assessable for separate school purposes, as indicated in Section 154 of the *School Act*. The concept of residence by faith is addressed in Section 44(4) of the *School Act*.

Section 47 – Eligibility to vote

In order to be eligible to vote, a person must first be qualified as an elector. Section 47 sets out the criteria of an elector as a person with the following characteristics:

- (a) is at least 18 years old,
- (b) is a Canadian citizen, and
- (c) has resided in Alberta for the six consecutive months immediately preceding election day and the person's place of residence is located in the area on election day.

Section 21 – Qualification of Candidates

Section 21 addresses the time period qualification required for residence. Before seeking office as a trustee, a candidate must have been a resident of the local jurisdiction and ward if any (except in school districts situated wholly or partly within a city) for the 6 consecutive month's immediately preceding nomination day. Similar to voting rules, candidates must satisfy both residence requirements (as described above) when a separate school district exists.

Sections 22 and 23 describe circumstances that deem a candidate ineligible.

Section 48 – Rules of Residence

In the context of physical residence, the following rules apply to “residence”:

- (a) a person may be a resident of only one place at a time for the purposes of voting under this act;
 - (a.1) if a person has more than one residence in Alberta, that person shall in accordance with subsection (1.1), designate one place of residence as the person’s place of residence for the purposes of this act (*LAEA*);
 - (b) the residence of a person is the place where that person lives and sleeps and to which, when the person is absent, the person intends to return;
 - (c) a person does not lose the person’s residence by leaving the person’s home for a temporary purpose;
 - (d) subject to clause (e), a student who
 - (i) attends an educational institution within or outside Alberta,
 - (ii) temporarily rents accommodation for the purpose of attending an educational institution, and
 - (iii) has family members who are resident in Alberta and with whom the student ordinarily resides when not attending an educational institution is deemed to reside with those family members;
 - (e) if a person leaves the area with the intention of making the person’s residence elsewhere, the person loses the person’s residence within the area.
- (1.1) For the purposes of subsection (1)(a.1), a person shall designate the person’s place of residence in accordance with the following factors in the following order of priority;
- (a) the address shown on the person’s driver’s licence or motor vehicle operator’s licence issued by or on behalf of the Government of Alberta or an identification card issued by or on behalf of the Government of Alberta;
 - (b) the address to which the person’s income tax correspondence is addressed and delivered;
 - (c) the address to which the person’s mail is addressed and delivered.

Section 48(2) further states that a person who is a resident of a public or separate school district under the *School Act* is also deemed a resident of the respective school district, as the case may be, under the *Local Authorities Election Act*.

Where a separate school district exists, the residents of that school district (the persons who reside within the boundaries of that district and who are of the same faith as those who established the district) are electors of the separate school district and elect trustees to the separate school board. All others are electors of the public school district and elect trustees to the public board.

Separate and public school jurisdiction boundary maps are available to assist you in determining the boundaries of each jurisdiction. Please call Alberta Education, Business Operations and Stakeholder Support Branch at 780-427-2055.

Section 44 – School Act

This section states where a separate school district is established, an individual residing within the boundaries of the separate school district who is of the same faith as those

who established the district, whether Protestant or Roman Catholic, is a resident of the separate school district and is not a resident of the public school district. This section in conjunction with other relevant sections of the *Local Authorities Election Act* (sections 48(2)(3) establishes that where a separate school district exists those persons who are of the same faith as those who established the separate school district are eligible to vote for a separate school district trustee. All others are eligible to vote for a public school trustee. Eligibility to vote for a trustee for a particular system is determined by faith. If you have children attending the public system but are a separate school elector, you must vote for a separate school trustee.

Voting Register

Electors use the voting register as a prescribed form to make a statement of eligibility to vote. It outlines the criteria that must be satisfied by all prospective voters. It also requires that, where applicable, a prospective voter indicate his/her eligibility to vote for either a public or separate school trustee.

A person of the Roman Catholic faith is defined as someone who is in communion with the See of Rome. A person of the Protestant faith is someone who is a Christian, and not a Roman Catholic. The only Protestant separate school district in Alberta is located in the City of St. Albert; all other separate school systems are Roman Catholic.

In St. Albert, people of the Protestant faith are eligible to vote for a separate school trustee; all others are eligible to vote for a public school trustee. In the rest of the province, where separate school systems exist, people of the Roman Catholic faith are eligible to vote for a separate school trustee; all others are eligible to vote for a public school trustee.

Impact of Voting Register

Separate school jurisdictions always share geographical area with public school jurisdictions. People living in the shared geographical area are eligible to vote for a trustee of either the separate or the public school jurisdiction. They are not eligible to vote for a trustee for both jurisdictions.

As previously discussed, faith determines a person's eligibility to vote for a trustee of a particular system. However, there is one exception to this rule. Eligible Francophone electors can vote in both the Francophone Regional Authority and the public or separate school authority. Section 256(4) of the *School Act* states that a person eligible to vote in an election for a board other than a Regional authority and in an election for a Regional authority may exercise the right to vote in both elections.

Electoral Structure

Elections are a fundamental element of democratic governance. They grant individuals an equal voice and foster community involvement in the delivery of education. An informed and effectual board of trustees must be comprised of community representatives. The *School Act* and *Local Authorities Election Act* allow school authorities to design electoral structures that best serve the demographic and geographical makeup of their respective education communities.

Section 262 of the *School Act* allows school authorities to elect trustees at large or by wards. When elections are at large, all persons residing in the school authority's geographical area vote for all candidates.

Wards subdivide the total geographical area of the school authority into smaller geographical units. Persons who reside in a particular ward vote for a candidate to represent the ward in which they reside.

Section 262 also permits divisions and regional divisions to subdivide wards into electoral subdivisions. Electoral subdivisions further divide wards into smaller geographical units. Persons who reside in a particular electoral subdivision vote for a candidate to represent the subdivision in which they reside.

Further confirming the above provisions, Section 47 of the *Local Authorities Election Act* requires that where wards or electoral subdivisions are established, a person is only eligible to vote in the ward or electoral subdivision in which the person resides.

In addition to wards and electoral subdivisions, voting subdivisions may be established (Section 36 of the *Local Authorities Election Act*). Voting subdivisions further divide the wards or electoral subdivisions into smaller geographical areas for the taking of votes.

Candidates for office (except in the case of cities and Francophone authorities) must reside in the ward or electoral subdivision they wish to represent. Candidates do not represent voting subdivisions.

Electoral Structure Impact

No matter the electoral structure – election at large, by ward or electoral subdivision – candidates and electors must meet the residence requirements of both Section 21 of the *Local Authorities Election Act* and Section 44 of the *School Act*.

Special Tax Levy

Section 190(1) of the *School Act* provides that a board, by resolution passed at a public meeting of the board, at least sixty days before election day in a year in which a general election will be held, may authorize holding a plebiscite to obtain approval of the electors of the district or division to impose a special tax levy. August 20, 2010 is the latest date a resolution can be passed.

Section 190(2) of the *School Act* mandates that a board, at least sixty days before the board intends to consider a resolution, shall give public notice of its intention to consider the resolution. June 20, 2010 is the latest date that public notice can be given.

Special Tax Levy Impact

The above section states that a board may hold a plebiscite of the electors. Electors must be 18 years of age, Canadian citizens and resident in Alberta for six consecutive months before the election (and as defined in Section 44 of the *School Act*).

The ballot to be used for a plebiscite for a special school tax levy is set out in the *Special Tax Levy Regulation, Alberta Regulation 94/98* (as amended). It asks electors to indicate whether or not they approve of the special school tax levy.

If the plebiscite receives a “yes” vote from more than 50% of the electors, the special tax levy will be imposed on the declared property contained in the geographical area governed by the school authority for education purposes.

For additional information on this process, please refer to the Special School Tax Levy Information Package. This document contains the process, links and contact numbers for a number of questions regarding the levy. It is available on the Education website:

www.education.alberta.ca/admin/resources/taxlevy.aspx

Petition for Plebiscite to Withdraw a Ward from a Regional Division

According to Section 228 of the *School Act*, four years after the establishment of a regional division, the electors residing in a ward in the regional division may petition the division’s board to provide for a plebiscite to determine whether or not the ward should be withdrawn from the regional division.

The petition must be signed in accordance with the regulations and forwarded to the Secretary of the board; a copy of the petition must be forwarded to the Minister. If the petition meets the requirements under Section 263 of the *School Act*, the board shall provide for a plebiscite to be conducted in the ward at the next general election and specify the questions, in accordance with the regulation, that are to be determined by the plebiscite.

The *Withdrawal of Ward Plebiscite Regulation, Alberta Regulation 27/2004* (as amended) was enacted under Section 235 of the *School Act* to provide a process to follow when a ward wishes to withdraw from a regional division.

If the majority of the electors vote in favour of withdrawing the ward from the original regional division, the electors of the ward, as required by Section 229 of the *School Act*, elect three representatives who are residents of the ward and who will negotiate with another board of a district or division for the purpose of adding all lands in the ward to another existing district or division.

The negotiations must be successfully completed by April 30 of the year following the year in which the plebiscite is held. If the representatives cannot negotiate an agreement with an existing district or division by April 30, the ward would remain with the regional division.

If as a result of successful negotiations relating to the addition of the ward to a regional division, district or school division, the proposed recipient of the ward has passed a resolution approving the addition of the ward to that district or division, the Minister shall, by order, take all the land in the ward out of the original regional division and add all land in the ward to the district or division proposed as the recipient of the ward.

In the event that a plebiscite is not successful, no further petition can be presented to the board until the expiry of 6 years following the date the board received the petition that initiated the plebiscite and the ward remains within the original regional division.

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY (FOIP) ACT CONSIDERATIONS

School boards, including Francophone Regional authorities, as “local public bodies” are subject to the *FOIP Act*. This *Act* requires that local public bodies (as defined in the *FOIP Act* and includes municipalities), when collecting personal information as defined in section 1(n) of the *FOIP Act*, provide a specific notice to the individual whose information is being collected. Section 34(2) of the *FOIP Act* requires that the notice include the following elements:

- (a) the purpose for which the information is collected,
- (b) the specific legal authority for the collection, and
- (c) the title, business address and business telephone number of an officer or employee of the public body who can answer the individual’s questions about the collection.

A school board that is responsible for conducting its own election process must provide for this notice, which may be posted in areas where nominations are taken and in voting stations.

A statement would read as follows:

The personal information collected on these forms is being collected under the authority of the *Local Authorities Election Act* and the *School Act* will be used for

(state purpose of the collection)

It will be treated in accordance with the provisions of the *Freedom of Information and Protection of Privacy Act*. If you have any questions regarding this collection contact

(title, business address, business telephone number of responsible official)

For further information/clarification, please get in touch with your jurisdiction’s designated FOIP Coordinator.

PART 1 – ELECTION PROCEDURE

*Unless otherwise stated, all section references are to the *Local Authorities Election Act*.

General Elections

Sections 10 and 11 – A general election is an election held for all the members of all elected authorities. They are held at three year intervals (e.g., 2010, 2013).

Each elected member holds office for three years from the time of the organizational meeting following the general election.

Returning Officer

Section 13 – The returning officer is responsible for running a local authority election. The Secretary of each elected authority is the returning officer unless the elected authority passes a resolution appointing a person other than the Secretary.

Section 13.1(1) – A returning officer must be independent and impartial when performing his/her duties.

Duties of Returning Officer

Section 14 – The returning officer shall appoint a presiding deputy, deputies, constables and other persons as required. The returning officer must designate at least two deputies to work at each voting station, one of whom shall be designated as the presiding deputy, who is to be in charge of the voting station.

Presiding Deputy Returning Officer

Section 14.1 – The presiding deputy shall carry out his/her duties under the *Local Authorities Election Act* and any other duties that a returning officer assigns.

Oath of Office

Section 16(1) – Before commencing any of their duties, the returning officer and official agent must take and subscribe to the official oath in the prescribed form.

Section 16(2) – Every deputy, enumerator, scrutineer and constable must subscribe to a statement in the prescribed form before performing the duties of that office.

Election of Employees

Section 22 – Employees of school jurisdictions, charter schools and private schools are not eligible to be nominated as a candidate for election to a school board on nomination day unless they are granted a leave of absence from the employing school jurisdiction. An employee may apply for a leave of absence without pay after July 1 in the year of an election, but before the employee's last working day prior to nomination day. A school jurisdiction, charter school or private school must grant every application for leave it receives.

Bylaw or Question

Section 7 – If the *Local Authorities Election Act* or any other Act provides for the submission of a bylaw or question to the electors or proprietary electors for their assent or approval, the bylaw or question shall be submitted to a vote in accordance with the *Local Authorities Election Act*.

Nomination Day

Section 25 – Nomination day for each general election shall be 4 weeks before the third Monday in October and for each by-election, shall be as established by resolution of the elected authority.

Notice of Nomination Day

Section 26(1) – The returning officer shall give notice of nomination day in the prescribed form by publishing a notice at least once a week in each of the 2 weeks prior to nomination day.

Qualifications of Candidates

Section 21(1) – Subject to the exceptions in Sections 22, 23, 24 and 256(3), to be eligible for nomination as a candidate, a person must on nomination day:

- (a) be eligible to vote in the election in which the person is a candidate,
- (b) have been a resident of the local jurisdiction and the ward, if any, for six (6) consecutive months immediately preceding nomination day, and
- (c) not be otherwise ineligible or disqualified.

Notwithstanding the above terms, a candidate for trustee of a board of a school district that is wholly or partly within the boundaries of a city is not required to be a resident of the ward in either a general election or a by-election, but must be a resident of the school district.

Form of Nomination

Section 27 – All nominations must be completed in the prescribed form. The nomination must be signed by at least 5 electors eligible to vote in that election and resident in the local jurisdiction on the date of signing, and shall be accompanied with a written acceptance signed in the prescribed form by the person nominated stating that the person is eligible to be elected to the office, the name, address and telephone number of the person's official agent and that the nominee will accept the office, if elected.

A city that is a local jurisdiction with a population of at least 10,000 or a board of trustees of a local jurisdiction with a population of at least 10,000 may, by a bylaw passed prior to June 30 of a general election year, specify the minimum number of electors required to sign the nomination of a candidate for an office, but that number must be at least 5 and not more than 100. If a system of wards is in effect, only a resident of the ward for which the candidate is being nominated is eligible to sign the nomination form.

If a bylaw has been passed providing for a deposit, a nomination paper is not valid unless it is accompanied by the deposit.

Receipt of Nominations

Section 28 – Nominations shall be received by the returning officer between the hours of 10:00 a.m. and 12:00 noon on nomination day. A bylaw passed prior June 30 of a general election year may allow for nominations to be received before 10:00 a.m. A similar bylaw may also allow for nominations to be accepted at alternate locations in addition to the jurisdiction office.

Nomination papers may be handed in by any person, not necessarily by candidates.

All nominations received may be examined by any elector during regular business hours and in the presence of the returning officer, deputy or secretary.

Section 28(1.1) – The person nominated as a candidate is responsible for ensuring that the filed nomination meets all requirements of Section 27.

Section 28.1 – On receiving a nomination paper, the returning officer must, if requested by the candidate, provide to him/her a sufficient number of copies of the prescribed form for the identification of an official agent, campaign workers and scrutineers.

Candidate's Deposit

Section 29 – An elected authority may, by bylaw, require that each candidate provide a deposit with the nomination. Such a bylaw shall be passed not less than thirty days before nomination day and shall establish the deposit amount required – not to exceed \$1000 for jurisdictions with a population of 10,000 or more and not over \$100 for all other jurisdictions.

Section 30 – When a bylaw has been passed to provide for a deposit, the returning officer shall require the deposit to be provided in cash, by certified cheque or by money order.

The candidates' deposits will be returned to them except those who fail to receive at least half as many votes as are received by the candidate elected with the lowest number of votes. In such a case, the deposit is forfeited and becomes general revenue of the local jurisdiction for which the deposit was established.

Death of a Candidate

Section 33(1) – An elected authority may, by a bylaw passed prior to nomination day, provide that in the event of a candidate's death between nomination and election day, the election for that position for which the deceased person was nominated shall be discontinued and a new election called in the same manner as any by-election.

Section 33(2) – If a candidate dies after being nominated and a bylaw has not been passed under subsection (1), the returning officer shall cause a notice of the death to be posted at a conspicuous location in all the relevant voting stations.

Insufficient Nominations Received

Section 31(1) – If sufficient nominations to fill all vacancies are not received during the specified hours on nomination day, the time for receiving nominations shall be adjourned to the next day at the same place at 10:00 a.m. and shall remain open until 12:00 noon and shall continue to be adjourned each day in the same manner until the required number of candidates has been nominated or a period of 6 days including nomination day, but not including Saturdays, Sundays and holidays has elapsed.

Section 31(4) – If sufficient nominations are not received at the end of the 6 consecutive days, the secretary shall immediately notify the relevant Minister and await further advice.

Withdrawal of Nominations

Section 32 – If more than the required number of persons are nominated for any office, any person so nominated may withdraw as a candidate at any time within 24 hours after the close of the nomination period, except that if the number of nominations is reduced by withdrawals to be equal to the number of vacancies, no further withdrawals may be accepted and the balance of the candidates will be declared elected by acclamation. All requests for withdrawals of nominations shall be submitted to the returning officer in writing.

Acclamations

Section 34 – If, at the close of nominations, the number of persons nominated for any office is equal to and does not exceed the number required to be elected, the returning officer shall declare the persons so nominated to be elected to the offices for which they were nominated. If this is the case, the returning officer shall immediately notify the secretary and the relevant Deputy Minister in writing of the persons so elected and the offices for which they were elected. If all positions are filled by this manner, this is the end of the election process. The returning officer shall then deliver the nomination forms and all other materials related to the nominations to the secretary responsible for their safekeeping.

Notice of Election

Section 35(1) – If, after the expiration of the 24 hour withdrawal period, there remain more nominations than the number required to fill all the vacant positions, the returning officer shall declare that an election will be held and state the positions to be filled by election. The returning officer shall give notice of the election or give notice of vote on a bylaw or question in the prescribed forms.

Section 35(2) – If an election is required, the returning officer shall give notice of it in the prescribed form by publishing a notice at least once a week in each of the 2 weeks before election day in a newspaper or other publication circulating in the area or by mailing or delivering a notice to every residence in the local jurisdiction at least 2 weeks before election day.

Section 35(4) – On complying with subsection (2), the returning officer may publish, mail and deliver additional notices and give notice by any other method as many times as the returning officer considers appropriate.

Access to Apartments

Section 52 – This provision allows enumerators, candidates, official agents and campaign workers on behalf of a candidate access to multiple family dwellings, apartments and mobile home parks. Any person desiring access under this section must carry proper identification indicating their position.

Indication of Eligibility to Vote

Section 53 – Every elector's name must appear on a voting list or the elector must make a statement, in the prescribed form, that he/she is eligible to vote before being given a ballot.

Designation of Voting Locations

Section 36 – The elected authority may, by resolution, divide the local jurisdiction into voting subdivisions or it may authorize the returning officer to establish voting subdivisions for the purpose of dividing the electors into smaller units to expedite the voting. If voting subdivisions are not so established, then the area, ward or electoral subdivision, if any, is considered one voting subdivision.

Section 37 – The returning officer shall designate the location of 1 voting station only for each voting subdivision. Voting stations may be located outside of the local jurisdiction.

Notwithstanding section 37, the *Modified Voting Procedure Regulation, Alberta Regulation 5/2007* provides that the returning officer of an elected authority that has passed a bylaw in accordance with section 160(2) of the *Act* may designate the locations of more than one (1) voting station for a voting subdivision.

Ballot Boxes

Section 39 – It is the responsibility of the secretary to provide the returning officer with sufficient ballot boxes to contain the maximum number of ballots that could be cast at each voting station.

Voting Machines

Section 84 – Local authorities using computers or other electronic voting machines must authorize their use by a bylaw that prescribes the form of the ballot, directions for the marking of a ballot by an elector and voting procedures for examination of ballots and counting of votes.

Printing of Ballots

Sections 41 and 42 – When it has been established that an election will be necessary, the returning officer shall arrange to have the sufficient number of ballots printed. Separate ballots shall be used for each office for which an election will be held and the ballots shall be in the prescribed form.

Ballots for voting on a question or bylaw shall be in a form determined by resolution of the local authority.

NOTE: *It is absolutely imperative that sufficient ballots are printed so that no voting station runs short.*

Eligibility to Vote

Sections 47 to 48 (LAEA) and Section 44 of the School Act – A person must first qualify as an elector in order to be able to vote. *Section 47* defines the criteria of an elector as follows:

- (a) is at least 18 years old,
- (b) is a Canadian citizen, and
- (c) has resided in Alberta for the six (6) consecutive months immediately preceding election day and the person's place of residence is located in the area on election day.

The definition of residing in the area on election day can be difficult to interpret and has caused debate in the past. *Section 48(1)* defines 'place of residence' as follows:

- (a) a person may be a resident of only one place at a time for the purposes of voting under this act;
 - (a.1) if a person has more than one residence in Alberta that person shall in accordance with subsection (1.1) designate one place of residence as the person's place of residence for the purposes of this act (*LAEA*);
 - (b) the residence of a person is the place where the person lives and sleeps and to which, when the person is absent, the person intends to return.
- (1.1) For the purposes of subsection (1)(a.1), a person shall designate the person's place of residence in accordance with the following factors in the following order of priority;
- (a) the address shown on the person's driver's licence or motor vehicle operator's licence issued by or on behalf of the Government of Alberta or an identification card issued by or on behalf of the Government of Alberta;
 - (b) the address to which the person's income tax correspondence is addressed and delivered;
 - (c) the address to which the person's mail is addressed and delivered.

Section 48(2) further states that a person who is a resident of a public school district or of a separate school district under the *School Act* is deemed to be a resident of the public school district or the separate school district as the case may be under this *Act*.

Section 44(4) of the *School Act* states that where a separate school district is established, an individual who resides within the boundaries of the separate school district who is of the same faith as those establishing that district, whether Protestant or Roman Catholic,

- (a) is a resident of the separate school district, and
- (b) is not a resident of the public school district.

Therefore, where a separate school district exists, the residents of the separate school district (that is those persons who reside within the boundaries of the separate school district and are of the same faith as those who established the separate school district) are electors of the separate school district and elect trustees to the separate school board. All others are electors of the public school district and elect trustees to the public board.

(Eligibility to vote in an election of members of the Francophone regional authority is addressed on page 35.)

Rules of Voting

Section 57 – An elector may vote only once for each of the persons he chooses to vote for but shall not vote for more than the number of persons to be elected to the office. The number to be elected shall be recorded on each ballot. An elector may vote only once on any question or bylaw.

Voting Time Off for Employees

Section 58 – Every employee who is an electors are entitled to 3 consecutive hours while the voting stations are open for the purpose of voting on election day. If the employee's normal hours terminate at 5:00 p.m., said employee would have 3 consecutive hours in which to cast a vote. For employees unable to take 3 consecutive hours, the employer must ensure the employee additional time to make up the three hours without any loss of pay or penalty, but the additional time for voting must be granted at the convenience of the employer. However, this will not apply if the employer makes arrangements for the employee electors to attend the voting station and return to work during the hours of employment, nor does it apply to election employees who may get a certificate from the returning officer stating that they are eligible to vote at the station where they are employed or at an advance voting station.

Candidate's Official Agents

Section 68.1 – Each person nominated as a candidate may, when filing nomination papers appoint an elector to be his/her official agent.

A person who has been convicted of an offence in the last ten years under this Act, the *Election Act* or the *Canada Elections Act* (Canada) is not eligible to be appointed as an official agent.

No candidate shall act as an official agent for any other candidate.

Candidate's Scrutineer

Section 69 – In a form acceptable to the returning officer, a candidate can state by written notice that the person presenting the notice is to represent that candidate as the candidate's scrutineer at the voting station. The presiding deputy may designate a place or places from where a candidate, an official agent or a scrutineer of a candidate may observe the election procedure. The places chosen must be reasonable so that they may be able to observe the election procedure without interference. A scrutineer must be a person who is at least 18 years old who has subscribed to a statement in the prescribed form.

The presiding deputy shall not permit a candidate to have an official agent or a scrutineer present while the candidate is present in a voting station during voting hours, nor shall the presiding deputy permit a candidate to have both an official agent and a scrutineer present at the same time in a voting station during voting hours.

A person who has been convicted of an offence in the last ten years under this Act, the *Election Act* or the *Canada Elections Act* (Canada) is not eligible to be appointed as a scrutineer.

Section 71 – Each scrutineer must produce a written notice of appointment before being admitted as a scrutineer to the voting station. In addition, they must take and subscribe to the statement under Section 16 in the prescribed form.

Section 85(2) - After the close of the voting station and during the counting of the votes, only a candidate or the candidate's official agent or scrutineer may be present in the voting station but not all.

Bylaw or Question Scrutineers

Section 70 – In a vote on a question or bylaw, any 2 electors may request the returning officer to appoint scrutineers for promoting the bylaw or affirmative voting on the question or for opposing the bylaw or negative voting on the question and the returning officer shall appoint, in writing, such scrutineers as are submitted by the electors. Each scrutineer must be at least 18 years old and must subscribe a statement in the prescribed form before the presiding deputy. Not more than one scrutineer for each side of the bylaw or question shall be permitted in the voting station at any one time.

Posting Instructions

Section 45 – Before opening the voting station, each presiding deputy must ensure that a copy of "Instructions for Electors" in the prescribed form is posted in the voting station and in each voting compartment, which includes Sections 116 and 117 of the *Act*. The local jurisdiction may authorize the presiding deputy to post the printed instructions in languages other than English.

Opening of Voting Station

Section 46 – On election day, every voting station shall be opened promptly at 10:00 a.m. and kept open continuously until 8:00 p.m. However, an elected authority responsible for the conduct of the election under an agreement by way of bylaw passed prior to June 30 may provide that the voting station be opened prior to 10:00 a.m.

Sealing Ballot Boxes

Section 40 – When the voting station opens, the presiding deputy shall open all ballot boxes and display them to those present to witness that the boxes are empty. The presiding deputy shall then seal each box so that they cannot be opened without breaking the seal.

Proof of Elector Eligibility

Section 53 – Each person who attends at a voting station must be permitted to vote if his/her name appears on the list of electors, if any, or if the person makes a statement stating that he/she is eligible to vote as an elector. The prescribed statement is contained in the voting register form, which is a prescribed form.

If a bylaw has been passed by an elected authority no later than 6 months prior to nomination day, a person who attends at the voting station for the purpose of voting must be permitted to vote if the requirements of eligibility are met and the person produces the identification required by the bylaw.

When an elected authority intends to pass a bylaw to require identification, it must advertise the proposed bylaw and include the proposed number and types of identification required in the notice of election day.

Upon signing the statement, the elector shall be given ballots for each position checked off in the voting register for which the person is entitled to vote. If the person refuses to sign the statement or provide the necessary required identification (after a bylaw is passed), he/she shall not be given any ballots.

Objection to a Vote

Section 54 – If a candidate, official agent or scrutineer objects to a person who makes a statement, the deputy shall note in the voting register the reason for the objection and the name of the objecting candidate, official agent or scrutineer and shall initial the objection in the voting register.

If a returning officer believes that a person is not eligible to be an elector based on reasonable and probable grounds, the returning officer must note in the voting register the reason for the belief and initial it.

Voting Register

Section 59 – In the voting register, the deputy shall record (Form 8) that an elector received a ballot for each of the offices or questions for which the elector is entitled to vote.

Ballot Control

Section 60 – Each ballot delivered shall be folded and initialed by the deputy so that the initial is visible without opening the ballot.

Elector Declining to Vote

Section 66 – If an elector returns a ballot and states that he/she is declining to vote, the elector is not entitled to another ballot for that office and the supervising deputy shall deposit the declined ballot in the ballot box.

Explanation of Voting Procedure

Section 61 – The deputy may, and on request, shall explain to the elector the proper method of voting.

Interpreter

Section 72 – If an elector does not understand the English language, the elector may have an interpreter to translate the statement and other documents or questions to assist the elector in casting a ballot.

Before acting, each interpreter shall make a statement in the prescribed form.

Advance Voting

Section 73 – An elected authority may, by resolution, hold an advance vote. The resolution shall state the hours and days when the advance vote will be held.

Section 74 – Notice of the advance vote shall be given in the prescribed form:

- (a) by publishing the notice at least one (1) week before the date set for the advance vote in a newspaper circulating in the area, or
- (b) by mailing or delivering a notice to every residence in the local jurisdiction at least 1 week before the date set for the advance vote or by both of the above methods and as many additional times as the returning officer considers desirable.

Section 75 – The returning officer shall establish the number of advance voting stations. A fresh ballot box must be used on each day of the advance vote.

Section 77.1 – Vote by special ballot: An elected authority, by resolution passed no later than 6 months prior to nomination day, may provide for special ballots and provide for an elector to apply by any one or more of the following methods:

- (a) in writing;
- (b) by telephone;
- (c) by telecopier;
- (d) in person; or
- (e) by email.

Application for a special ballot must include the following:

- (a) first and last name of the elector;
- (b) municipal address of the residence of the elector;
- (c) school elector status, if the elector is voting for a school trustee;
- (d) mailing address to which the special ballot is to be sent;
- (e) contact telephone number;
- (f) contact email address, if the elector is unavailable; and
- (g) reason why a special ballot is requested.

On receipt of an application under this section, if the elected authority by resolution before nomination day provides for special ballots, the returning officer or deputy must

- (a) enter the following in the special ballot elector register:
 - (i) the electors name and place of residence; and
 - (ii) the name and number of the voting subdivision for the elector's place of residence, and
- (b) cause the appropriate forms to be provided to the applicant.

If an elected authority provided for application for a special ballot, Sections 77.1 to 77.3 should be reviewed.

Incapacitated Elector at the Voting Station

Section 78 – If an elector is unable to read or is incapacitated by blindness or other physical disability, such that the elector cannot mark the ballot and if the elector makes a statement in the prescribed form to this effect, the deputy may mark the elector's ballot in the manner directed by the elector, or any other person appointed by the elector as an interpreter. The interpreter, friend or relative of the elector is required to make a statement in the prescribed form.

Incapacitated Voters at Home

Section 79 – An elected authority may, by resolution, allow for vote taking at the residence of physically incapacitated electors who are unable to attend a regular or advance voting station.

All other voting procedures shall follow the provisions of the *Act* as nearly as possible.

Institutional Voting Stations

Section 80 – An elected authority, by resolution, or the returning officer, if authorized by resolution of the elected authority, may designate the location of 1 or more institutional voting stations. If an elected authority provides for the holding of an advanced vote, the returning officer may provide for the taking of the advanced vote at an institutional voting station.

Section 81 – If an institutional vote is provided for, the returning officer shall fix the times on election day at which such votes will be taken and make all other necessary arrangements.

The candidate, official agent and scrutineer may attend an institutional vote only if the vote is conducted at a fixed location in a public area of the institution and may not attend voting conducted in the room of a resident of the institution.

Section 82 – Notice of voting stations shall be given in the prescribed form and posted in a conspicuous place in the institution not less than 2 days before election day.

All voting procedures shall as nearly as possible follow the provisions of the *Act* except that candidates or official agents are not entitled to be present at the voting. The ballot boxes shall not be opened until the close of the voting stations on election day.

PART II - PROCEDURE AFTER CLOSE OF VOTING STATION

Closing of Voting Station

Section 46 – Promptly at 8:00 p.m. on election day, the deputy shall declare the voting station closed and any elector in the voting station who wishes to vote shall be permitted to do so, but no other person shall be allowed to enter the voting station for that purpose.

Counting of Votes

Section 85 – Immediately after the close of the voting station, the presiding deputy shall open each ballot box and count the votes in the presence of at least 1 of the officers the deputy considers necessary, and the candidates, official agents or scrutineer, if applicable. Only the candidate, official agent or scrutineer may be permitted in the voting station during the vote counting, but not both at the same time.

Section 86(1) – The deputy shall examine all the ballots and reject any ballot:

- (a) that does not bear the initials of the officer,
 - (b) on which more votes are cast than an elector is entitled to cast,
 - (c) on which anything is written or marked by which an elector can be identified,
 - (d) that has been torn, defaced or otherwise dealt with by an elector so that the elector can thereby be identified,
 - (e) which is not marked by an "X", or
 - (f) on which no vote has been cast by an elector,
- and the rejected ballots shall not be counted.

Section 86(2) – On the back of a ballot, the deputy shall endorse:

- (a) "rejected", if he rejects it as void, and
 - (b) "rejection objected to", if any objection is made to his decision,
- and shall initial each endorsement.

Section 86(3) – Notwithstanding subsection (1) (e), if an incorrectly marked ballot clearly indicates for whom or what the elector intended to vote, the deputy may count that ballot.

Section 87 – The deputy shall make note, in the prescribed form, of any objection made by a candidate or the candidate's official agent or scrutineer to any ballot found in the ballot box and shall decide any question arising out of the objection.

Every objection shall be numbered and the corresponding number placed on the back of the ballot and initialed by the deputy.

Ballots Counting

Section 88(1) – The deputy shall count the ballots marked for each candidate on the ballots not rejected and the presiding deputy shall prepare a ballot account in the prescribed form with the following information:

- (a) the name of the local jurisdiction,
- (b) the name or number of the voting subdivision and voting station,
- (c) the date of the election,
- (d) the name of each candidate and the number of valid ballots marked for each,
- (e) the number of ballots supplied,
- (f) the number of valid ballots,
- (g) the number of valid ballots objected to,
- (h) the number of rejected ballots,
- (i) the number of ballots rejected because no vote was cast by an elector,
 - (i.1) the number of special ballots not returned,
- (j) the number of unused ballots,
- (k) the number of spoiled ballots,
- (l) the number of ballots not accounted for, and
- (m) the number of persons objected to under Section 54.

Section 88(2) – In the case of a vote on a bylaw or question, a deputy shall count the number of ballots marked for and against the bylaw, or in the affirmative or in the negative on the question and the presiding deputy shall prepare a ballot account in the prescribed form with the following information:

- (a) the name of the local jurisdiction,
- (b) the name or number of the voting subdivision and voting station,
- (c) the date of the election,
- (d) the number of ballots supplied
- (e) the question or a description of the bylaw and the number of valid ballots marked for the bylaw or in the affirmative on the question,
- (f) the question or a description of the bylaw and the number of valid ballots marked against the bylaw or in the negative on the question,
- (g) the number of valid ballots objected to,
- (h) the number of rejected ballots,
- (i) the number of ballots rejected because no vote was cast by an elector,
- (j) the number of unused ballots,
- (k) the number of spoiled ballots, and
- (l) the number of ballots not accounted for.

Ballot Accounts General

Section 89 – The ballot account shall be signed by at least two deputies involved in the count. If a candidate, his/her official agents or scrutineers request to sign the ballot, they are permitted to do so.

The deputy, on request, shall provide a copy of the ballot account to persons authorized to sign the ballot account as soon as practicable.

Presiding Deputy's Certification

Section 90(1) – The presiding deputy, at the close of the voting station, shall certify on the prescribed form, in words, the number of persons who registered to vote at the voting station at which the deputy was designated to preside.

Section 90(2) – The presiding deputy must make a copy of the voter register on which an objection has been noted under Section 54 at the close of the voting station on election day.

Section 90(3) – After the close of voting stations on election day and prior to the disposition of election materials, any person who may object under Section 54 may view the copy of the voter register on which objections have been noted in the presence of the secretary or returning officer during regular business hours.

Packet of Ballots

Section 91(1) – Once the ballots are counted, the presiding deputy shall make up the following into separate packets:

- (a) the valid ballots,
- (b) the valid ballots objected to, together with the notes of objections made to the ballots found in the ballot box,
- (c) the rejected ballots including those on which no vote has been cast by an elector,
- (d) the spoiled ballots,
- (e) the unused ballots,
- (f) the voting register together with the statement referred in prescribed Form 9,
- (g) the list of electors, if any.

Sealing Ballot Packets

Section 92 – Each packet of ballots shall be sealed with the deputy's seal and each packet marked with the following on the outside:

- (a) a short statement of the contents of the packet,
- (b) the date of the election,
- (c) the name of the deputy, and
- (d) the voting subdivision name or number.

Securing Election Documents

Section 93 – The presiding deputy shall then place all ballot packets, the voting register forms, the special ballot certificate envelopes and copies of special electors' identification, if any, all statements made on voting day and a list of electors, if any, in the ballot box. The ballot box shall be closed and sealed with a deputy's seal so that it cannot be opened without breaking the seal and marked with the voting station name or number on the outside.

Delivery of Ballot Box and Ballot Account

Section 94 – The presiding deputy shall personally deliver the following to the returning officer as soon as practicable:

- (a) the sealed ballot box,
- (b) the ballot account and the copies made under Section 90 of the voter registers on which objections have been made.

NOTE: *DO NOT put the ballot account into the ballot box. It must be delivered separately to the returning officer.*

Election Results

Section 95 – At any general election or by-election, the candidate or candidates receiving the highest number of votes shall be declared elected.

Unless another enactment provides otherwise, if more than 50% of the persons voting are in favor of the bylaw or affirmatively on the question, then the bylaw or question is deemed to be assented to by the electors.

Tie Vote

Section 99 – In the event of a tie vote and if necessary for determining which candidate is elected, the returning officer shall write the names of those candidates on a separate blank sheet of paper, deposit the sheets of paper in a receptacle and direct someone to withdraw one of the sheets. The person whose name appears on the sheet drawn will be declared to have one more vote than the other candidate.

Declaration of Election Results

Section 97 – The returning officer may publish unofficial results of the ballot count after an election, as the results are received from voting stations.

At noon on the 4th day after election day, the returning officer shall announce or post a statement of the election results at the office of the local jurisdiction and forward a signed copy of the statement to the secretary and the relevant Deputy Minister. A suggested form for the returning officer's signed statement is included in the Appendix (Reporting Forms – page 113).

Recounts

Section 98 – The returning officer may recount if any of the following conditions apply:

- (a) a candidate, an official agent or a scrutineer of a candidate, within forty-four (44) hours of the closing of the voting shows reasonable grounds that the count is inaccurate;
- (b) rejected ballots other than those on which no vote was cast by an elector was sufficient to affect the result of the election if they had not been counted or rejected; or
- (c) there may have been an administrative or technical error that caused an error in the count of votes.

Section 102 – Other than during a recount by the returning officer, no person may inspect the contents of a ballot box in the custody of the secretary, except on order of a judge.

Section 103 – Within 19 days of the close of the voting stations, any elector may apply to the court for a recount. A deposit of \$300 is required.

Procedures relating to a judicial recount are outlined in Sections 104 to 115.

Disposition of Election Materials

Section 101 – The secretary, unless ordered by a judge, shall retain copies of voter registers, if any, and the ballot boxes with unbroken seals for six weeks from the date of voting and then shall destroy the contents in the presence of two witnesses, who shall take affidavits that they witnessed the destruction. A suggested form for the witness affidavit is included in the Appendix (Optional Forms – page 117).

Controverted Elections

Sections 116 to 147 – This portion of the *Act* relates primarily to the matters of bribery, undue influence, allowable election expenses and the penalties relating to offenses to the *Act* in those regards.

These issues usually arise from challenges under judicial recounts, but may occur separately.

Offenses

Section 148 – No person shall:

- (a) supply an unauthorized ballot to any person,
- (b) fraudulently deposit a ballot,
- (c) fraudulently remove a ballot from the voting station,
- (d) interfere with a ballot box or packet of ballots,
- (e) request a ballot in the name of some other person,
- (f) vote more than once at the same election,
- (g) vote knowing that the person has no right to do so,
- (h) make or sign a false statement for any purpose related to an election or vote held or to be held under this *Act*, or
- (i) print or distribute in any advertisement, handbook, placard, poster, circular, pamphlet, newspaper or other paper a form of ballot printed by the returning officer indicating it marked for a particular candidate(s).

For proper detail, see Sections 148 to 158 of the *Act*. The *Act* also makes reference to offenses in other sections.

Part 6 of the *Act* defines the penalties relating to the above offenses and provides for penalties for offenses under other portions of the *Act*. It is recommended that the returning officer carefully review those sections, as amended, to ensure that he/she and the persons they advise are aware of the possible offenses and the penalties involved.

Regulations

Section 159 – The Lieutenant Governor in Council has the authority to make specific regulations under the *Act*. The Minister of Municipal Affairs may make regulations prescribing forms under the *Act* and respecting standards for ballot boxes.

FRANCOPHONE ELECTION INFORMATION

REGIONAL AUTHORITIES

Elector and Candidate Eligibility

Section 256 of the *School Act* sets out the qualification of electors and candidates in elections for regional authorities as follows:

For the purposes of the *School Act* and the *Local Authorities Election Act*, an individual is eligible to vote in an election for members of a regional authority if:

- (a) the individual
 - (i) is a Francophone,
 - (ii) has a child who is enrolled in a school operated by the regional authority,
 - (iii) is 18 years of age or older,
 - (iv) is a Canadian citizen, and
 - (v) has been a resident of Alberta for the 6 consecutive months immediately preceding election day.or
- (b) the individual is a member of a class of individuals prescribed by the Lieutenant Governor in Council as being eligible to vote.

In addition to the requirements stated above, *Section 256(1.1)* of the *School Act* states that a separate school elector may only vote for a candidate who is standing for election as a separate school member. Conversely, a public school elector may only vote for a candidate standing for election as a public school member. (Definitions are set out in *Section 252.1* of the *School Act*.)

A candidate for election as a separate school member must be of the same faith, whether Protestant or Roman Catholic, as the minority of all individuals living within the boundaries of the region, as determined by the Minister under *Section 253.1* of the *School Act*.

A candidate for election as a public school member may not be of the same faith, whether Protestant or Roman Catholic, as the minority of all individuals living within the boundaries of the region, as determined by the Minister under *Section 253.1* of the *School Act*.

Section 256(2) of the *School Act* indicates that for the purposes of the *School Act* and the *Local Authorities Election Act*, and notwithstanding Section 21 of the *Local Authorities Election Act*, an individual who may vote in an election for the members of a regional authority may nominate an individual as a candidate for election as a member of the regional authority as follows:

- (a) in the case of a separate school elector, nominate an individual as a candidate to stand for election as a separate school member, and
- (b) in the case of a public school elector, nominate an individual as a candidate to stand for election as a public school member.

A person who is eligible to vote in an election for a board other than a regional authority and in an election for a regional authority may exercise the right to vote in both elections (Section 256(4) of the *School Act*).

A person may be a member of only one of a regional authority or a board at any particular time (Section 256(5) of the *School Act*).

Expansion of Class of Electors Eligible to Vote In An Election of Regional Authority Members

Under Section 256(1)(b), of the *School Act*, the Lieutenant Governor in Council has the authority to expand the class of individuals eligible to vote in an election of members to a regional authority. This expansion occurred and Order in Council 218/2004, dated May 19, 2004, was issued. The expanded class of electors was in place for the last two general elections held in 2004 and 2007.

In accordance with Order in Council 218/2004, the individuals eligible to vote in a Francophone regional authority election has been expanded to include the following:

- (a) individuals who
 - (i) were enrolled as students in a school operated by a regional authority,
 - (ii) have received an Alberta High School diploma or certificate from a regional authority,
 - (iii) are Canadian citizens,
 - (iv) are 18 years of age or older, and
 - (iv) have been a resident of Alberta for the 6 consecutive months immediately preceding election day,
- and
- (b) individuals who
 - (i) are the biological parents or the adoptive parents of individuals referred to in clause (a),
 - (ii) are Canadian citizens,
 - (iii) are 18 years of age or older, and
 - (iv) have been a resident of Alberta for the 6 consecutive months immediately preceding election day.

Summary of Elector Eligibility

To qualify as an elector, a person must meet the following criteria:

- have not voted before in this election;
- be a Francophone;
- be 18 years of age or older;
- be a Canadian citizen;
- have been a resident in Alberta for the 6 consecutive months immediately preceding election day.

and

- have a child enrolled in a school operated by a regional authority for which the election is to be held, or
- be an individual who was enrolled as a student in a school operated by a regional authority and received an Alberta High School Diploma or Certificate from a regional authority; or
- is the biological or adoptive parent of an individual who was enrolled as a student in a school operated by a regional authority.

The individual, who graduated from a school operated by a regional authority, is not required to have graduated from the regional authority in which he/she is intending to vote. In other words, the individual may have graduated from a school operated by regional authority A and if this individual now resides in the geographic area of regional authority B, then the individual may vote for the member of regional authority B. An elector must reside within the geographic area of the regional authority for which he/she will vote.

A Francophone is defined in the *School Act* in Section 1(k) as an individual referred to in Section 10 of the *School Act*. This definition encompasses individuals who have rights under Section 23 of the *Canadian Charter of Rights and Freedoms* as persons whose first language, learned and understood, is French or, who received their primary instruction in French or who have children whose siblings have received their primary or secondary instruction in French in Canada.

Under Section 256 (3) of the *School Act* and under the *Local Authorities Election Act*, an individual is eligible to be elected as a member of a regional authority if the individual:

- (a) is 18 years of age or older,
- (b) is a Canadian citizen,
- (c) has been resident of Alberta for the 6 consecutive months immediately preceding nomination day,
and
- (d) is not otherwise ineligible under the *Local Authorities Election Act*.

Summary

A candidate does not need to be a Francophone, as defined in the *School Act*, nor does he/she need to have a child enrolled in a school operated by the Francophone authority. In addition, a candidate does not need to reside in the area served by a Francophone authority.

However, a candidate may only be nominated by an individual eligible to vote in the election in which the candidate wishes to run.

DUTIES OF THE SECRETARY

Returning Officer

Section 13 – If the elected authority does not appoint a returning officer, then the secretary is deemed to be the returning officer.

Oath, Statement of Office

Section 16 – The secretary shall subscribe to the oath of office of returning officer if a returning officer is not appointed.

Information and Assistance

Section 19 – The secretary shall provide assistance and information to the returning officer.

Custodian

Section 19 – On the voting results or declaration of election by acclamation by the returning officer, the secretary shall take custody of all election materials and provide for their safe keeping and destruction.

Inspection of Nomination Papers

Section 34(3) – The nomination papers and other related material may be inspected by an elector during regular business hours in the presence of the secretary.

Ballot Boxes

Section 39 – The secretary shall provide sufficient ballot boxes to the returning officer.

Retention of Election Material

Section 101 – Unless otherwise ordered by a judge, the secretary shall retain the ballot boxes with their seals unbroken for 6 weeks from the voting date.

Disposal of Election Material

Section 101 – In the presence of two witnesses, the secretary shall destroy the contents of the ballot boxes after 6 weeks from the voting date unless otherwise ordered by a judge.

Inspection of Ballots

Section 102 – The secretary shall not allow any person to inspect the contents of a ballot box in the custody of the secretary, except on an order of a judge.

Notice of Application – Judicial Recount

Section 104 – The Notice of Motion for a recount shall be served, by the applicant, on the secretary.

Judicial Recount

Section 106 – The secretary shall be present at a judicial recount.

Certification of Recount

Section 112 – The secretary shall post a statement in the secretary’s office declaring the result of a judicial recount.

Report on Bribery

Section 122 – The secretary shall receive a report from a judge on any person found guilty of bribery or undue influence and the secretary shall record the names of these people.

Production of Election Material

Section 134 – As required by a judge, the secretary shall provide the judge with all election materials that the judge considers necessary.

Invalid Election

Section 138 – The secretary has all the power to hold an election if a judge declares an election invalid and orders a new election.

Disclaimer

Section 145 – The secretary shall report the receipt of a disclaimer to the elected authority.

DUTIES OF RETURNING OFFICER

Appointment

Section 13 – The returning officer is appointed by resolution of the elected authority. If the elected authority does not appoint the returning officer, then the secretary is deemed to be the returning officer.

Impartiality

Section 13.1(1) – A returning officer must be independent and impartial when performing his/her duties.

General Duties

Section 14 – In addition to performing all other prescribed duties, a returning officer shall perform the duties set out in this section.

Oath of Office

Section 16 – The returning officer must subscribe to the official oath prior to assuming the duties of office.

Administration of Oaths

Section 20 – The returning officer is authorized to administer an oath to a person making an oath that is authorized or required by this *Act*.

Substitute Election Official

Section 18 – The returning officer may appoint a substitute deputy or constable if that election official becomes incapable of carrying out his/her duties.

Notice of Nomination Day

Section 26 – The returning officer shall give notice of nomination at least once a week in each of the 2 weeks prior to nomination day, in the prescribed form.

Nomination Day

Section 28 – The returning officer shall receive nominations at the local jurisdiction office between 10:00 a.m. and 12:00 noon on nomination day or prior to 10:00 a.m., if an enabling bylaw is passed prior to June 30.

By bylaw passed prior to June 30, an elected authority may allow for a deputy returning officer to receive nominations at a location other than the jurisdiction office.

Deposit

Section 27 – If the elected authority, by bylaw, requires that every nomination be accompanied by a deposit in the determined amount, the returning officer may not accept a nomination paper if it is not accompanied by a cash deposit.

Section 28.1 – On receiving a nomination paper, the returning officer must, if requested by the candidate, provide to the candidate a sufficient number of copies of the prescribed forms for the identification of an official agent, campaign workers and scrutineers for the purposes of identification under Section 52.

Insufficient Nominations

Section 31 – If the returning officer does not receive sufficient nominations, nomination day shall stand adjourned until the next day at the same place between the hours of 10:00 a.m. and 12:00 noon and continue to be adjourned in the same manner each day until the required number of nominations has been received or a period of 6 days (including nomination day, excluding Saturdays, Sundays and holidays) has elapsed.

Notify Relevant Minister

Section 31 – If the returning officer does not receive sufficient nominations when the 6 day period has elapsed, the returning officer must immediately notify the secretary, who in turn must notify the relevant Minister (through the Business Operations and Stakeholder Support Branch for school jurisdictions).

Withdrawal of Nominations

Section 32 – The returning officer shall accept written withdrawals from candidates anytime within 24 hours after the close of the nomination period if there are more candidates than there are positions to be filled.

If after one or more candidates have withdrawn, the number of remaining candidates does not exceed the number of vacancies to be filled, the returning officer shall refuse to accept further withdrawals.

Death of candidate

Section 33(2) – If a candidate dies after being nominated and a bylaw by the elected authority has not been passed, the returning officer shall post a notice of death at conspicuous locations in all relevant voting stations.

Election by Acclamation

Section 34 – The returning officer shall declare those persons nominated to be elected if, at the close of nominations, the number of persons nominated is the same as the number required to be elected.

Report to Secretary

Section 34(1)(2) – After having declared the candidates elected, the returning officer shall notify in writing the secretary and the relevant Minister's Deputy Minister of the persons so elected and the offices to which they were elected. The returning officer shall deliver the nomination papers and other materials relating to the receipt of nominations to the secretary.

Examination of Nomination Papers

Section 34(3) – At any time after 12 noon on nomination day until the term of office to which the filed nomination papers relate has expired, a person may request to examine the filed nomination papers during regular business hours and in the presence of the returning officer, deputy or secretary.

Retention of Nomination Papers

Section 34(4) – The returning officer or secretary must retain all filed nomination papers until the term of office to which the nomination papers related has expired.

Declaration of Election

Section 35 – If there are more candidates than there are vacancies after 24 hours from the closing of nominations, the returning officer shall declare an election to be held.

Notice of Election

Section 35 – The returning officer shall give notice of an election in the prescribed form.

Voting Subdivisions

Section 36 – The returning officer, if authorized by resolution, may divide the local jurisdiction into voting subdivisions and may from time to time alter their boundaries prior to the notice of election.

Voting Stations

Section 37 – The returning officer shall designate the location of the voting station and a location may be outside of the area. (The returning officer shall ensure that the voting station is available and properly furnished to accommodate an election.)

Voting Compartments

Section 38 – The returning officer shall ensure that each voting station is furnished with one or more voting compartments:

- (a) Each voting compartment shall be arranged so that an elector is screened from observation and may mark the ballot without interference or interruption.
- (b) Each voting compartment shall be provided with a table, desk or shelf with a hard surface and a black lead pencil or other suitable marking instrument.

Printing of Ballots

Section 41 – The returning officer shall ensure that sufficient number of ballots are printed in the prescribed form.

List of Electors

Section 50 – The returning officer or secretary shall prepare a list of electors who are entitled to vote in an election, if directed to do so by a bylaw of the elected authority.

Appointment of Enumerators

Section 51 – If a bylaw is passed directing the preparation of a list of electors, the returning officer or secretary shall appoint a sufficient number of enumerators and provide each enumerator with an identification badge.

Person Objected To

Section 54(2) – If a returning officer believes that a person is not eligible to be an elector based on reasonable and probable grounds, the returning officer must note and initial his/her reason for the belief on the voting register.

Appointment of Scrutineers

Section 70 – The returning officer shall appoint scrutineers to represent those persons interested in promoting the passing of the bylaw or question and shall also appoint scrutineers to represent those persons interested in opposing the passage of the bylaw or question if requested to do so by two or more electors.

Notice of Advance Vote

Section 74(2) – The returning officer shall give notice of the time and place fixed for an advance vote, as prescribed in Sections 35, if the elected authority, by resolution, holds an advance vote.

Advance Vote Stations

Section 75 – The returning officer shall establish the advance voting stations.

Vote by Special Ballot

Section 77.1(3) – On receipt of an application under this section, if the elected authority by resolution before nomination day provides for special ballots, the returning officer or deputy must enter in the ballot elector register, the elector's name and the elector's place of residence, the name and number of the voting subdivision for the elector's place of residence, and cause the appropriate forms to be provided to the applicant.

Section 77.1(4) – The returning office must, on request, make available to any candidate or a candidate's official agent or scrutineer in the voting station the names and addresses of those electors in the voting station who have applied for and been provided with the appropriate forms under this section.

Section 77.2 and 77.3 further outlines the process the returning officer must follow once the appropriate forms have been received by the returning officer.

Incapacitated Elector At Home

Section 79 – The returning officer shall prepare a list of incapacitated electors and advise them that their applications have been accepted or rejected and appoint sufficient deputies to attend at the elector's residence, if the elected authority, by resolution, provides for the attendance of a deputy at the residence of the elector.

Institutional Voting

Section 80 and 81 – If an institutional vote is provided for, the returning officer shall fix the time and designate the location of one or more institutional voting stations at which the votes in the institution shall be taken and appoint at least two deputies to take votes.

Deputy and Constable's Votes

Section 83 – On the request of an elector appointed deputy or constable to attend at a voting station during the whole of election day other than where that elector is entitled to vote, the returning officer shall provide the elector with a certificate stating that the elector is eligible to vote at the station the elector is to be stationed during election day. The returning officer shall provide the elector with a certificate, if an elector is assigned as an officer in a local jurisdiction other than the one in which that elector is eligible to vote.

Delivery of Sealed Ballot Box

Section 94 – After the closing of the voting stations, the returning officer shall receive the ballot box, the ballot account and the copies made under Section 90 of the voter registers on which objections have been noted from the presiding deputy as soon as is practicable.

Declaration of Results

Sections 96 and 97 – The returning officer shall declare the voting result at noon on the 4th day after the election. The returning officer may publish unofficial election results as the results are received from the voting stations.

Recount

Section 98 – The returning officer may make a recount if a candidate, an official agent or a scrutineer of a candidate, pursuant to Section 69, disagrees with the ballot account and indicates reason for this disagreement.

An application under this section may be made during the 44 hours immediately following the closing of the voting stations.

Equality of Votes

Section 99 – In the event that two or more candidates have received the same number of votes, the returning officer shall deposit their names in a receptacle and direct a person to draw one name. The returning officer shall declare the candidate whose name appears on the withdrawn sheet to have one more vote than the other candidate.

Delivery of Election Material

Section 100 – The returning officer shall deliver the sealed ballot boxes, the ballot account and the nomination papers to the secretary as soon as practicable after the election.

DUTIES OF THE PRESIDING DEPUTY RETURNING OFFICER

Appointment of Presiding Deputy Returning Officer

Section 14 – There must be a minimum of two deputy returning officers at each voting station, one of which must be designated as the presiding deputy returning officer. The presiding deputy is in charge of the voting station.

Section 14.1 – A presiding deputy shall carry out his/her duties and any other duties that a returning officer assigns to the presiding officer.

Appointment of Constable

Section 15 – The presiding deputy at a voting station is charged with maintaining the peace at the voting station and with the approval of the returning officer, may appoint a constable to maintain order at the voting station and may summon to the deputy's assistance in a voting station or any other person for the purpose of maintaining order, preserving the public peace, preventing any breach of the public peace, or removing any person who, in the opinion of the deputy presiding at the voting station, is obstructing the voting or contravening this *Act*.

Administration of Oaths

Section 20 – The returning officer, a presiding deputy or a commissioner for oaths is authorized to administer an oath to a person who is authorized or required by this *Act*.

Sealing the Ballot Box

Section 40 – The presiding deputy at a voting station shall show each ballot box to the persons present immediately after the opening of the voting station so that they can see that it is empty, then close and seal the box so that it cannot be opened without breaking the seal and place the box in the presiding deputy's view for the receipt of ballots. The presiding deputy shall keep each ballot box closed and sealed and in full view of all present during the hours of voting.

Instructions for Voters

Section 45 – The presiding deputy shall ensure instructions for the electors are posted in each voting compartment. If authorized by the local jurisdiction, the presiding deputy shall post the printed instructions in languages other than English at the voting stations as the local jurisdiction considers appropriate.

Counting of Votes

Section 85 – The presiding deputy shall open each ballot box and count the votes immediately after the closing of the voting station.

Certification of Ballot Account

Section 91 – The presiding deputy shall make up the ballots into the separate packets, as specified in Sections 91 and 92. The presiding deputy shall prepare and sign the certification of the ballot account.

Securing Election Documents

Section 93 – The presiding deputy shall place all the packets containing the ballots, the voting register, all statements made on voting day and list of electors, if any, in the ballot box and close and seal it with a deputy's seal. The ballot box must be marked on the outside with the voting station name or number.

Delivery of Ballot Account

Section 94 – The presiding deputy shall personally deliver the sealed ballot box and the ballot account to the returning officer.

Certificate in Voting Register

Section 90 – The presiding deputy shall certify, on the prescribed form, the number of persons who voted at the voting station and place the signed certification on top of the completed voting register forms.

Delivery of Ballot Box/Ballot Account

Section 94 – The presiding deputy shall deliver the ballot box and the ballot account to the returning officer as soon as is practicable after the ballot counting.

DUTIES OF A DEPUTY RETURNING OFFICER

Oath of Office

Section 16 – The deputy shall subscribe to an oath of office.

Substitute Deputy

Section 18 – The returning officer may, in writing, appoint a substitute deputy.

Administration of Oaths of Office

Section 20 – The returning officer, by virtue of the office, is authorized to administer an oath to a person who is authorized by this *Act*.

Locking of Ballot Boxes

Section 40 – Immediately after opening the voting station, the deputy shall show each ballot box to the persons present at the voting station so that they can see the boxes are empty, then lock and seal the ballot boxes. The boxes shall remain locked and sealed during voting hours.

Closing of Voting Station

Section 46 – The deputy shall declare the voting station closed promptly at 8:00 p.m. The deputy shall allow those in the voting station at the closing of the station to vote, if they wish.

Notice of Objection

Section 54 – The deputy shall note and initial and initial all objections to a person voting in the voting register.

Ballot Recording

Section 59 – The deputy shall record the ballot for each office received by an elector in the voting register.

Ballot to Elector

Section 60 – The deputy shall ensure that all ballots are folded properly and initialed before they are handed to the elector.

Explanation to Elector

Section 61 – The deputy may, and on request shall explain to an elector as concisely as possible the proper method of voting in accordance with the instructions for electors.

Deposit Ballot in Ballot Box

Section 63 – The deputy shall ensure that the appropriate initials are on the ballot prior to depositing it in the ballot box.

Spoiled Ballot

Section 65 – The deputy may replace an inadvertently spoiled ballot. The spoiled ballot shall be so marked and preserved.

Recognition of Agent

Section 69(1) - The deputy shall take a statement in the prescribed form from an agent.

Candidate's Agent

Section 69 – The deputy shall not allow more than one agent in a voting station at any time.

Interpreter

Section 72 – The deputy may allow an interpreter to translate the statement and any other question necessary for the proper purposes of the election, after the interpreter has made a statement in the prescribed form.

Elector's Declaration – Advance Poll

Section 77 – The deputy shall require all persons applying to vote at an advance voting station to make a statement in the prescribed form.

Incapacitated Elector – At Voting Station

Section 78 – The deputy, when requested, shall mark the vote for an incapacitated elector. The deputy, when requested, shall permit a friend of an incapacitated elector to mark the vote for the elector.

Section 78 – The deputy shall cause to be entered in the voting register, opposite the name of the voter and in the appropriate column either “voter assistance” or “template”.

Incapacitated Elector – At Home

Section 79 – The deputy, accompanied by another deputy when required to do so by resolution of an elected authority, shall attend at the home of an incapacitated elector.

Institutional Vote

Sections 80 and 81 – The deputy, when required, shall attend at an institution for the purpose of taking the vote of electors confined to a hospital, nursing home, or resident in a senior citizens home or unit. The vote may be taken on the date established as the day of the advance vote or on election day.

Section 82 – The deputy shall post a copy of the notice prescribed under Section 35 in at least one conspicuous place in the institution at least 2 days before the day on which the vote is to be taken.

Void Ballots

Section 86 – The deputy shall endorse and initial each void ballot.

Note of Objection

Section 87 – The deputy shall make note of any objection to any ballot in the prescribed form.

Ballot Account

Section 88 – The deputy shall prepare a ballot account, in the prescribed form.

Signature - Ballot Account

Section 89 – At least two deputies involved in the count shall sign the ballot account.

DUTIES OF A CONSTABLE

Constable

Section 15 – A constable is to maintain peace and order at the voting station and may summon to assistance in a voting station of a police officer or any other person for the following purposes:

- (a) maintaining order;
- (b) preserving the public peace;
- (c) preventing any breach of the public peace, or
- (d) removing any person who is obstructing the voting or contravening this *Act*.

Oath of Office

Section 16 – The constable shall subscribe to a statement of office prior to assuming his/her duties.

CANDIDATE'S OFFICIAL AGENT

Appointment

Section 68.1(1) – A candidate may, when filing nomination papers, appoint an elector to be his/her official agent. The official agent must be at least 18 years of age and cannot have been convicted of an offence under the *Local Authorities Election Act*, the *Election Act* or the *Canada Election Act (Canada)* in the last 10 years.

Oath of Office

Section 69 – A candidate's official agent must make a statement in the prescribed form.

Attendance at Voting Station

Section 69 – Only one official agent may be present at a voting station at any time.

Observe Election Procedures

Section 69 – The deputy may designate the place or places where an agent may observe the election procedure.

Act or Thing to be Done

Section 69 – An agent's absence at an act or thing to be done at which he/she may attend does not invalidate the act or thing as long as it is otherwise properly done.

BYLAW SCRUTINEERS

Appointment

Section 70 – A scrutineer may be appointed, by the returning officer, if requested in writing, by two or more electors. The scrutineer must be at least 18 years of age and cannot have been convicted of an offence under the *Local Authorities Election Act*, the *Election Act* or the *Canada Election Act (Canada)* within the last ten years.

Oath of Office

Section 70 – A scrutineer shall make a statement in the prescribed form.

Attendance at Voting Station

Section 70 – Only one scrutineer for each side of the bylaw or question may be in attendance at a voting station at one time.

Observe Election Procedures

Section 70 – The returning officer may designate the place or places at a voting station where a scrutineer may observe the election conduct.

Certificate of Appointment

Section 71 – A scrutineer shall produce a certificate of appointment before being admitted to a voting station.

Appendix

Election Forms

The election forms are prescribed in the *Local Authorities Elections Forms Regulation, Alberta Regulation 106/2007* and are located on the Education website:
<http://education.alberta.ca/admin/resources/election.aspx>.

Alternately, you can obtain them by contacting the following branch:

Business Operations and Stakeholder Support Branch
Phone: 780-427-2055
Fax: 780-644-5799
Email: edc.2010election@gov.ab.ca

Forms for School Boards

(Schedule 1 of the *Local Authorities Elections Forms Regulation,
Alberta Regulation 106/2007*)

Forms for Francophone Regional Authorities

*(Schedules 2 and 3 of the Local Authorities Elections Forms Regulation, Alberta
Regulation 106/2007)*

Reporting Forms

Optional Forms

Regulations

Sample Forms for Modified Voting Procedures

Questions and Answers

Questions and Answers

1. An emerging issue requires a decision from the school board by October 20, 2010. This date is after the election, but prior to the organizational meeting of the new board. Who has the responsibility to act in this case?

Answer: The old board has the responsibility to act. The newly elected trustees do not commence their duties until they have taken the Oath of Office (*School Act* – Section 76).

2. I am considering running for trustee. Do I have to run in the ward in which I reside?

Answer: Yes. The only exception to this rule is if a candidate resides within the boundaries of a city, he/she does not have to run in the ward in which he/she resides (*Local Authorities Election Act* – Section 21(3)).

3. The Board of Trustees for my school division isn't making any changes to their ward structure or to the trustee representation. Do we have to pass any ward related bylaws prior to the next election?

Answer: Technically, no. However, all boards are encouraged to review their existing bylaws well in advance of the election. Please note that even if your ward structure or trustee representation hasn't changed, it is still possible that the legislation your bylaws reference has. For example, your old bylaws could be referencing sections of the *School Act* or *Local Authorities Election Act* that are no longer applicable.

4. The votes have been counted (and recounted) in a particular ward and Candidate A and Candidate B are tied with 112 votes each. How is the tie broken?

Answer: The returning officer writes the names of each candidate on separate pieces of paper of equal size, color and texture and places them in a receptacle and directs someone to withdraw one of the sheets. The candidate's name that is withdrawn shall be declared elected with one more vote than the other candidate (*Local Authorities Election Act* – Section 99).

5. Catholic residents residing in a Catholic school district have challenged the results of the election, because they claim that their Catholic neighbours, who also reside in the Catholic school district, voted for the public school candidates. As Returning Officer, how would you handle this situation?

Answer: The Returning Officer is not responsible to handle the situation other than to indicate to the electors that challenges must be handled through the courts. In past court cases, judges have ruled that the faith of the electors is what they state it is and no one can question it.

6. If all candidates are declared elected by acclamation, does the newly elected board need to wait until after election day to hold the organizational meeting?

Answer: No. If every position is acclaimed, those declared elected may hold an organizational meeting before the date of the general election (*Local Authorities Election Act* – Section 10(2)).

7. A newly elected trustee is not able to physically attend the organizational meeting of the board. Can this individual participate in the meeting via teleconference?

Answer: Yes. If the trustee has arranged to take the Oath of Office prior to the organizational meeting, he/she can attend and participate via electronic means and be deemed present at the meeting (*School Act* – Section 71 – recent amendment).

8. A municipal annexation in a city occurs and as a result, the residence of an elected trustee changes from the county to the city. Is the trustee still allowed to hold office?

Answer: No. The trustee would be disqualified. The trustee would cease to be eligible for nomination under the *Local Authorities Election Act* (*School Act* – Section 82 and *Local Authorities Election Act* – Section 21).

9. A candidate files nomination papers to run in a separate school district. Two days after nomination day, the Minister signs an order that adds lands that include the candidate's residence to the separate district. The candidate is acclaimed to his/her position. Is he/she eligible to be nominated?

Answer: No. The candidate did not meet the requirement of being able to vote in the election on nomination day (*Local Authorities Election Act* – Section 21). If he/she attempts to hold office the board should ask him/her to resign and hold a by-election to fill the vacancy. The candidate would be eligible to run in the by-election.

10. Are substitute teachers eligible to run for school board trustee positions?

Answer: It depends on the relationship between the employee and the board. If the substitute teacher is considered an employee of the local jurisdiction for which the election is to be held then the candidate would be ineligible to run as school board trustee (*Local Authorities Election Act* – Section 22(1)). If the board and potential candidate consider substitute teachers not to be employees of the board then the substitute teacher could run for office.

11. Is the president of a school council eligible to run for trustee?

Answer: Yes. Members of school councils are not employees of the local jurisdiction and are eligible to run for office provided they meet all other eligibility criteria (*Local Authorities Election Act* – Section 22(1)).

12. An elected trustee is moving out of his/her ward, but is remaining within the boundaries of the school authority. Is he/she eligible to remain in office?

Answer: If the trustee is not located in a school district within a city he/she would be disqualified because the trustee ceases to be qualified for nomination under the *Local Authorities Election Act (School Act Section 82(1))*. If the trustee is located in a school district located wholly or partly within a city, he/she would remain qualified to act as trustee. A candidate for trustee of a board that is wholly or partly within the boundaries of a city is not required to be a resident of the ward in either a general election or a by-election, but must be a resident of the school district. (*Local Authorities Election Act – Section 21(3)*).

13. Can more than one voting station be set up in each voting subdivision?

Answer: Yes, if the proper procedures are followed. Where an elected authority has passed a bylaw in accordance with 160(2) of the *Local Authorities Election Act*, Section 37 of the Act is modified as follows: The location of more than one voting station may be designated for each voting subdivision (Modified Voting Procedure Regulation).

14. What happens if nomination day passes and the returning officer does not receive enough nominations to fill all the trustee positions?

Answer: The returning officer will continue to accept nominations the following day beginning at 10:00 am and remain open until 12 noon and shall continue to receive nominations in the same manner from day to day until the required nominations have been received or a period of 6 days including nomination day but not including Saturday or Sunday. If 6 days elapse and the required nominations are still not received the Secretary shall immediately notify the relevant Minister (*Local Authorities Election Act – Section 31*).