

ALBERTA REGULATION

164/2018

FILED ON

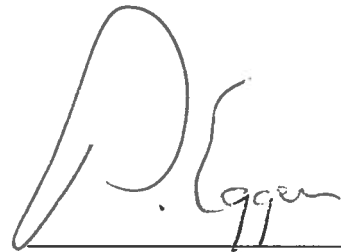
August 30

2018

GOVERNMENT OF ALBERTA
DEPARTMENT OF EDUCATION
MINISTERIAL ORDER (# 021 / 2018)

I, David Eggen, Minister of Education, pursuant to Sections 213, 213.1, 214.1, 215, 216.1, 217, and 220 of the **School Act**, make the Order set out in the attached Appendix, being the *Establishment of Separate School Districts Regulation*

DATED at Edmonton, Alberta August 30, 2018.



MINISTER OF EDUCATION

APPENDIX

School Act

ESTABLISHMENT OF SEPARATE SCHOOL DISTRICTS REGULATION

Table of Contents

Part 1 Establishment of Separate School District

Division 1 Separate School Establishment Area

- 1 Notice of intention to establish
- 2 Determining the separate school establishment area

Division 2 Community Information Meeting

- 3 Timing of community information meeting
- 4 Notice of community information meeting
- 5 Appointment of secretary and approval of attendance record and minutes
- 6 Conduct of community information meeting

Division 3 Vote Respecting Establishment of Separate School District

- 7 Definitions for Division 3
- 8 Appointment of returning officer
- 9 Powers and duties of returning officer
- 10 Costs
- 11 Notice of vote
- 12 Conduct of vote
- 13 Instructions for voters
- 14 Voting hours
- 15 Wording of question on ballot
- 16 Results of vote
- 17 Notice of results of vote
- 18 Year in which establishment order becomes effective

Part 2 Disestablishment of Separate School District

- 19 Definitions for Part 2
- 20 Eligible voters for plebiscite
- 21 Conduct of plebiscite
- 22 Petition
- 23 Wording of question for plebiscite
- 24 Notice of results

Part 3 General

- 25 Coming into force



Part 1 Establishment of Separate School District

Division 1 Separate School Establishment Area

Notice of intention to establish

1 A notification under section 213(1)(a) of the Act must be provided to the Minister on or before October 30 of the year prior to the year in which the proposed separate school district is to be established.

Determining the separate school establishment area

2(1) After giving the notification referred to in section 1, the initiating separate school electors shall organize a meeting under section 213.1(1) of the Act for the purpose of determining the separate school establishment area.

(2) The initiating separate school electors shall give at least 7 days' notice in writing of the time, date and location of the meeting to the operating separate school board, the public school board and the municipality or municipalities in which the public school district is located.

(3) The meeting must be held on a day that is

- (a) no more than 90 days after the notification referred to in section 1 is provided to the Minister, and
- (b) no later than November 14 of the year prior to the year in which the proposed separate school district is to be established.

(4) In determining the separate school establishment area, the following restrictions apply:

- (a) any public school district included in the separate school establishment area must be included in its entirety;
- (b) the separate school establishment area must not include any area not operated by the public school board that has jurisdiction for the area in which the initiating separate school electors reside;
- (c) if any part of the separate school establishment area is located within a separate school region, no part of the

separate school establishment area may be located in any other separate school region.

(5) The initiating separate school electors, the operating separate school board and the public school board shall act in good faith to determine the separate school establishment area.

(6) Following the meeting, but no later than December 7 of the year prior to the year that the proposed separate school district is to be established, the initiating separate school electors, the operating separate school board and the public school board shall notify the Minister

- (a) of the separate school establishment area determined at the meeting, or
- (b) that those electors and boards were not able to agree on the separate school establishment area.

Division 2 Community Information Meeting

Timing of community information meeting

3 Where a petition has been provided to the Minister in accordance with section 214(3) of the Act, a community information meeting must be held on a day that is at least 10 days, but no more than 30 days, before a vote respecting establishment is held under section 215 of the Act.

Notice of community information meeting

4(1) At least 7 days before a community information meeting is held,

- (a) the operating separate school board and the public school board shall publish notice of the meeting in a prominent manner on their websites.
- (b) the petitioners shall post notice of the meeting in 5 or more conspicuous physical locations to which the public has normal and regular access in the establishment area for the proposed separate school district, and
- (c) the operating separate school board, the public school board or petitioners may publish or post notice of the

meeting in any additional place or manner they consider appropriate.

(2) A notice under this section must include the location, date and time of the community information meeting.

(3) Despite the requirement to publish notice under subsection (1)(a), any failure to do so does not invalidate the community information meeting.

Appointment of secretary and approval of attendance record and minutes

5(1) The chair of a community information meeting shall appoint a secretary to record attendance and the minutes of the meeting.

(2) A person who attends the meeting as a representative of the Minister, a board, a municipality, a school council or any other organization shall identify that they are attending in that capacity and must be recorded as such on the attendance record prepared by the secretary.

(3) The chair shall approve the attendance record and minutes and provide a copy of each document to the Minister within no more than 10 days after the meeting.

Conduct of community information meeting

6(1) A community information meeting must be open to the public.

(2) At the commencement of a community information meeting, the chair shall read the petition that was prepared and provided to the Minister in accordance with section 214(3) of the Act.

(3) After the petition is read, the chair shall provide a period for

- (a) a representative of the operating separate school board, the public school board, the petitioners and the Minister to make presentations.
- (b) residents in the proposed separate school establishment area, including the petitioners, and the representatives referred to in clause (a) to discuss and ask questions about the petition and the potential implications of establishing a separate school district, and

(c) those who made the presentations to respond to the questions.

(4) The chair may moderate discussion at the meeting, including by limiting speaking time, as the chair sees fit.

Division 3 Vote Respecting Establishment of Separate School District

Definitions for Division 3

7 In this Division,

- (a) "deputy returning officer" means a deputy returning officer appointed under section 9(1)(a);
- (b) "returning officer" means the returning officer appointed under section 8;
- (c) "vote" means a vote to establish a separate school district under section 215 of the Act;
- (d) "voting day" means the day or days on which a vote is taken.

Appointment of returning officer

8(1) The Minister may appoint a returning officer for the purposes of conducting a vote.

(2) The returning officer must not be a petitioner or a member, officer or employee of any board.

Powers and duties of returning officer

9(1) The returning officer

- (a) shall appoint one or more deputy returning officers.
- (b) shall establish one or more voting stations as the returning officer considers necessary.
- (c) subject to subsection (3), shall designate at least 2 deputy returning officers to work at each voting station, and
- (d) may do all other things necessary for the conduct of a vote.

- (2) A deputy returning officer must not be a petitioner or a member, officer or employee of any board.
- (3) The returning officer may work with a deputy returning officer at a voting station instead of designating a second deputy returning officer to work there.
- (4) The returning officer shall provide for the supply and delivery of ballots, ballot boxes and instructions to separate school electors and other necessary supplies to all voting stations.
- (5) The returning officer shall, before performing the duties of that office, take and subscribe to an official oath in the form prescribed by the Minister.
- (6) Every deputy returning officer shall, before performing the duties of that office, take and subscribe to an oath in the form prescribed under subsection (5), and the oath of a deputy returning officer may be administered by the returning officer.

Costs

- 10** The petitioners are responsible for all facility costs associated with the community information meeting and the vote.

Notice of vote

- 11(1)** Notice respecting the vote must be served by the petitioners on the public school board by personal delivery, a method of recorded mail or electronic means at least 10 days prior to the date set out in the notice of the vote.
 - (2) At least 7 days before a vote is held.
 - (a) the operating separate school board and the public school board shall publish notice of the vote in a prominent manner on their websites,
 - (b) the petitioners shall post notice of the vote in 5 or more conspicuous physical locations to which the public has normal and regular access in the establishment area for the proposed separate school district, and
 - (c) the operating separate school board, public school board or petitioners may post or give notice of the vote in any additional place or manner they consider appropriate.

(3) A notice under this section must include the location, date and time of the vote.

(4) Despite the requirement to publish notice under subsection (2)(a), any failure to do so does not invalidate the vote.

Conduct of vote

12(1) A separate school elector who wishes to vote shall sign in the presence of the returning officer or a deputy returning officer a declaration in the form required by the Minister stating that the elector is a separate school elector.

(2) A person who has not signed the declaration referred to in subsection (1) is not entitled to vote.

(3) The vote must be conducted by secret ballot.

(4) The returning officer or a deputy returning officer shall preside over the taking of the poll.

Instructions for voters

13(1) Before the opening of a voting station, the returning officer or a deputy returning officer at the voting station shall post printed instructions for the electors within each voting compartment and at a conspicuous location within the voting station and shall ensure that they remain posted there until the close of the voting station.

(2) The instructions must be printed in clearly legible characters in the form required by the Minister.

Voting hours

14(1) Every voting station shall remain open on voting day for 10 consecutive hours from 10 a.m. until 8 p.m.

(2) Promptly at 8 p.m. a deputy returning officer shall declare the voting station closed.

(3) If, when a voting station is declared closed, there is a separate school elector in the voting station who wishes to vote, the elector shall be permitted to do so, but no other person shall be allowed to enter the voting station for that purpose.

Wording of question on ballot

15 The wording of the question on the ballot must be:

Do you favour the establishment of the proposed separate school district?

Results of vote

16(1) After the voting stations are closed under section 14, the returning officer shall proceed to count the votes.

(2) If there is more than one voting station, ballots must be sealed by a deputy returning officer before being delivered to the returning officer for counting.

Notice of results of vote

17(1) Before sending to the Minister the information and documents required under section 216.1(1) of the Act, the returning officer shall provide notice of the results of the vote in accordance with this section.

(2) As soon as is practicable after the results of the vote are known, the returning officer shall provide notice of the results

(a) by e-mail or regular mail, as the returning officer considers appropriate, to the operating separate school board, the public school board and the municipality or municipalities in which the public school district is located, and

(b) by whatever means the returning officer considers appropriate, to the petitioners' representative.

(3) Prior to the vote being held, the petitioners shall inform the returning officer of the petitioners' representative for the purposes of this section.

Year in which establishment order becomes effective

18 Where a vote is taken and the majority of the separate school electors who cast valid ballots voted in favour of the establishment of a separate school district, the order establishing the separate school district shall become effective

(a) on September 1 of the year in which the vote was taken, if the vote was taken on or before March 31, or

- (b) on September 1 of the year immediately following the year in which the vote was taken, if the vote was taken after March 31.

Part 2 Disestablishment of Separate School District

Definitions for Part 2

19 In this Part,

- (a) "deputy returning officer" means a deputy returning officer appointed by a returning officer;
- (b) "petitioner" means an individual who signs a petition referred to in section 220(1)(b) of the Act;
- (c) "plebiscite" means a plebiscite under section 220 of the Act;
- (d) "returning officer" means the returning officer appointed under section 21(1);
- (e) "vote" means a vote in a plebiscite;
- (f) "voting day" means the day or days on which a vote is taken.

Eligible voters for plebiscite

20 Where a board is required or authorized to conduct a plebiscite in respect of the disestablishment of a separate school district, only the separate school electors of the separate school district are entitled to vote in the plebiscite.

Conduct of plebiscite

21(1) A board shall appoint a returning officer for the purposes of conducting a plebiscite.

(2) Section 9(1), (3), (4) and (5) apply, as modified by applying the definitions in section 19, in respect of a returning officer appointed under this section.

(3) Section 9(6) applies in respect of every deputy returning officer designated under this section.

(4) The operating separate school board shall, at least 7 days before a vote is held,

- (a) publish notice of the vote in a prominent manner on its website, and
- (b) post notice of the vote in 5 or more conspicuous physical locations to which the public has normal and regular access in the separate school district area considered for disestablishment.

and may post or give notice of the vote in any additional place or manner it considers appropriate.

(5) A notice under subsection (4) must include the location, date and time of the vote.

(6) Sections 11 to 14 and 16 apply, as modified by applying the definitions in section 19, in respect of a vote.

(7) Despite subsection (6), for the purposes of this section, notice respecting the vote does not need to be served on the public school board; however 10 days' notice must be provided to the public school board.

Petition

22(1) A petition referred to in section 220(1)(b) of the Act for the disestablishment of a separate school district must

- (a) provide evidence satisfactory to the Minister that the separate school electors are of the same faith, whether Protestant or Roman Catholic, as those in the minority in the separate school district, and
- (b) be in the form required by the Minister.

(2) The petitioners shall provide the petition for the disestablishment to the operating separate school board and provide copies of the petition to the public school board and the Minister.

Wording of question for plebiscite

23 The wording of the question on the ballot for the plebiscite must be:

Do you favour the disestablishment of
The _____ Separate School District No. _____?

Notice of results

24(1) The returning officer shall, no more than 10 days after the vote is held, send the following to the Minister:

- (a) a copy of the notice calling the vote;
- (b) proof, in the form required by the Minister, that the notice respecting the vote was made public in accordance with section 21;
- (c) proof, in the form required by the Minister, that the notice respecting the vote was provided to the public school board in accordance with section 21;
- (d) proof satisfactory to the Minister that those who participated in the vote are separate school electors of the separate school district;
- (e) the declaration of the returning officer with respect to the result of the vote, which must include a statement that the minimum participation for a binding vote as set out in section 216 of the Act was met.

(2) As soon as practicable after the results of the vote are known, the returning officer shall provide notice of the results of the vote

- (a) by e-mail or regular mail, as the returning officer considers appropriate, to the operating separate school board, the public school board and the municipality or municipalities in which the separate school district is located, and
- (b) by whatever means the returning officer considers appropriate, to the petitioners' representative.

(3) Prior to the vote being held, the petitioners shall inform the returning officer of the petitioners' representative for the purposes of this section.

**Part 3
General**

Coming into force

25 This Regulation comes into force on the coming into force of section 28 of the *School Amendment Act, 2017*.