

**NEWFOUNDLAND AND LABRADOR
REGULATION 146/97**

**School Board Election Regulations, 1998
under the Schools Act, 1997
(O.C. 97-782)
Amended by:
63/05
99/05**

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Schools Act, 1997
(O.C. 97-782)**

Under the authority of subsection 118 of the *Schools Act, 1997*, the Lieutenant-Governor in Council makes the following regulations.

Dated at St. John's, December 22, 1997 .

John R. Cummings
for the Clerk of the Executive Council

REGULATIONS

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Short title

- 1. These regulations may be cited as the *School Board Election Regulations, 1998*.

[146/97 s1](#)

Definitions

- 2. In these regulations
 - (a) "Act" means the *Schools Act, 1997* ;
 - (b) "elector" means a person who is qualified to vote at an election of trustees to a board;
 - (c) "returning officer" means, unless otherwise determined by the board, the assistant director of finance and business administration appointed under section 79 of the Act; and
 - (d) "zone" means a zone established by a board under section 54 of the Act for the purpose of electoral representation in a district.

[146/97 s2](#)

Time of election and first meeting

- 3. (1) An election of trustees to a board shall be held on the day that municipal elections are held unless the minister otherwise directs.
- (2) The first meeting of a board following an election of trustees, other than a by-election, shall be called within 30 days of the election.

[146/97 s3](#)

Persons qualified to vote

- 4. (1) A person is qualified to vote in an election of trustees to a board who
 - (a) is not less than 18 years of age;
 - (b) is a Canadian citizen; and
 - (c) is ordinarily resident in the district on the day of the election.
- (2) An elector is entitled to vote in only one zone established by the board under section 54 of the Act.
- (3) For the purpose of subsection (2), the zone in which the elector is entitled to vote shall be the zone in which the person is ordinarily resident.
- (4) Notwithstanding subsections (1) to (3), an elector who has a child enrolled in a school located in a district where he or she is not ordinarily resident may vote in an election of trustees to the board in that district.
- (5) For the purpose of subsection (4), an elector who is not ordinarily resident in the district shall vote in the zone where the school at which one or more of the elector's children is enrolled is located.
- (6) Section 26 of the *Elections Act, 1991* applies for the purpose of determining whether a person is ordinarily resident in a district or a zone for the purpose of paragraph (1)(c) and subsections (3) and (5).

[146/97 s4](#)

Ballots

- 5. A ballot shall clearly state

- (a) the name of each candidate; and
- (b) the number of trustees for whom an elector may vote.

[146/97 s5](#)

Candidates

- 6. (1) A person who is qualified to vote for trustees in a zone is qualified to be a candidate in that zone.
- (2) Notwithstanding subsection (1), a candidate shall be ordinarily resident in the zone in which he or she seeks election on the day of the filing of the nomination.
- (3) A candidate for election shall be nominated by 2 persons who are qualified to vote in the zone for which the person is seeking election.
- (4) A person is not eligible to be a candidate at an election
 - (a) to more than one board; or
 - (b) to more than one zone.

[146/97 s6](#)

Duties of board

- 7. (1) Not less than 10 days before the deadline for receipt of nominations for an election, other than a by-election, a board shall
 - (a) determine the number of polling divisions into which the district is to be divided, giving due consideration to geographical and all other factors that may affect the convenience of the electors in casting their votes; and
 - (b) appoint a returning officer.
- (2) Where a poll is granted under section 15, a board shall, within 3 working days of the closing date for the nomination of candidates,
 - (a) appoint a deputy returning officer and poll clerk for each designated polling station; and
 - (b) designate polling stations to be used for the election.
- (3) Notwithstanding subsection (2), where the boundaries of a district include a municipality, or part of a municipality, a board shall co-operate with the council of the municipality for the purpose of, where practical,
 - (a) designating polling stations to be used jointly in a board and municipal election; and
 - (b) appointing deputy returning officers and poll clerks to act concurrently, in their respective capacities, in a board and municipal election.
- (4) Notwithstanding subsection (3), where an election does not coincide with a municipal election the board shall, where practical, use schools or board offices as polling stations.

[146/97 s7](#)

List of electors

- 8. (1) Not less than 2 months before the date of an election, other than a by-election, the returning officer shall cause a list of electors for the district to be prepared, revised and compiled in accordance with these regulations.
- (2) The returning officer shall prepare a list of electors for each polling division and, where practical, the list so prepared shall be in a form prescribed by the minister.
- (3) For the purpose of preparing a list of electors for the district, a returning officer shall use valid sources of information available to the returning officer.
- (4) Where a list of electors referred to in subsection (1) is to be compiled, the returning officer shall complete the list of electors not later than 30 days before the next election.

[146/97 s8](#)

Particulars of electoral lists

- 9. The returning officer shall, when the returning officer has completed the preparation of the list of electors for a polling division or district, endorse at the end of the list a certificate in a form prescribed by the minister signed by the returning officer.

Posting of nomination notice

10. (1) The returning officer shall post notices of the period fixed for the nomination of candidates in at least one conspicuous place in each city, town or community in the district where the board operates a school, and the notices shall be posted not less than 7 days before the commencement of the period fixed for the nomination.

(2) The returning officer shall, where a poll is granted, post notices of the poll in at least one conspicuous place in each city, town or community in the district where the board operates a school, and the notices shall be posted within 3 days of the expiration of the period fixed for the nomination of candidates.

Persons eligible to vote

11. (1) Where a list of electors is compiled under section 8, the electors whose names appear in the lists of electors certified by the returning officer shall be those entitled to vote at the next election and a person whose name does not appear upon the list shall not be allowed to vote at the election.

(2) Notwithstanding subsection (1), every elector whose name has been omitted from the list of electors may have his or her name inserted before the close of the poll by attending at the election and completing a declaration of eligibility to vote in a form prescribed by the minister.

Nomination

12. (1) Every nomination shall be in a form prescribed by the minister.

(2) The nomination form shall be filed with the returning officer between the hours of 9:00 a.m. and 5:00 p.m. during the 5 working days occurring immediately before the 25 days before the date fixed for the election.

(3) A nomination form may be delivered to the returning officer by registered mail provided it is postmarked on the first 3 working days fixed for the filing of nomination forms under subsection (2).

(4) A nomination form may be filed with a returning officer by facsimile transmission provided the date of the transmission is stated on it electronically.

Returning officer may declare election

13. Where only as many or fewer candidates are nominated as trustees than are required to be elected in a zone the returning officer shall, without a poll being taken, declare those candidates who are nominated to be elected and shall make the declaration publicly at his or her office at 9:00 a.m. of the first working day following that on which nominations close.

Where too few candidates are nominated

14. Where fewer candidates are nominated as trustees than are required to be elected in a zone the returning officer shall notify the board and the board shall notify the minister of the deficiency.

Declaration of poll

15. Where more candidates are nominated as trustees than are required to be elected in a zone the board shall grant a poll for the taking of votes.

Ballot papers

16. (1) When a poll has been granted the returning officer shall immediately cause to be printed a number of ballot papers, not less than the number of electors in the zone in which an election is to be held, and shall stamp with the stamp or seal with the seal of the board all ballot papers to be used in an election of trustees.

(2) Notwithstanding subsection (1), the returning officer shall not stamp or seal ballot papers except those forwarded to the deputy returning officers and the existence of a ballot paper stamped or sealed by the returning officer other than those provided to the deputy returning officers is, in the absence of evidence to the contrary, evidence of malfeasance in office by the returning officer.

(3) The ballot papers shall contain the names of the candidates and shall be alphabetically arranged in the order of their surnames or, if there are 2 or more candidates with the same surname, in the order of their other names and the names shall be as set out in the nomination papers with the description given in it.

(4) The ballot papers shall be in a form prescribed by the minister.

[146/97 s16](#)

Procedure on granting of poll

17. (1) On a poll being granted, the returning officer shall deliver to every deputy returning officer

(a) a list in alphabetical order of the persons qualified to vote in the polling division for which the deputy returning officer has been appointed if such a list has been compiled;

(b) one ballot box;

(c) a sufficient number of ballots and the materials necessary to enable electors to mark them;

(d) a sufficient number of copies of directions for the guidance of electors which shall be in a form prescribed by the minister; and

(e) one or more poll books which shall be in a form prescribed by the minister.

(2) Every returning officer or deputy returning officer shall cause a copy of the directions for the guidance of electors to be posted prominently outside the polling booth and in every compartment of the polling booth and shall see that they remain so posted until the close of polling.

[146/97 s17](#)

Oath or affirmation of office

18. (1) Every returning officer, deputy returning officer and poll clerk shall, before assuming office under section 7, take an oath or affirmation of office in the form prescribed by the minister.

(2) The oath or affirmation of office referred to in subsection (1) may be sworn or affirmed before a justice of the peace, a commissioner for oaths or a notary public.

[146/97 s18](#)

Polling station

19. (1) Every returning officer or deputy returning officer shall at 8:00 a.m. on polling day open the poll assigned to the returning officer or deputy returning officer and shall until 8:00 p.m. keep the poll open and shall during that time receive in the manner prescribed the votes of all electors qualified to vote at the polling booth.

(2) Every polling booth shall be provided with compartments in which electors may mark their ballots screened from observation.

[146/97 s19](#)

Adjournment of election

19.1 (1) Notwithstanding subsection 19(1), where a returning officer or a deputy returning officer appointed under subsection 7(2) is of the opinion, due to circumstances beyond his or her control, that polling in one or more zones or parts of zones on polling day cannot continue or take place, the returning officer may direct that the election proceedings at polls in one or more zones or parts of zones be adjourned.

(2) Where the election proceedings are adjourned under subsection (1), the returning officer shall, in the manner that he or she considers appropriate, give notice of that adjournment to the persons affected by it.

(3) Election proceedings may be adjourned under subsection (1)

(a) temporarily to another time on the same day or to another place and time on the same day as specified by the returning officer; or

(b) to another day, time or place directed by the returning officer.

(4) Where an election is adjourned to another day, time or place under paragraph (3) (b), the time shall be not later than 10 working days after the original date set for the election.

(5) While an election is adjourned, the returning officer shall make all reasonable effort to ensure that election materials are secured and that the integrity of the election is not compromised.

(6) Election proceedings that recommence after an adjournment shall continue for the time that, when added to the time preceding the adjournment, totals the time during which those election proceedings were to occur regardless of the adjournment.

(7) Where voting proceedings are adjourned, the counting of the vote shall not begin until the close of voting for the adjourned election proceeding.

(8) Notwithstanding subsection (4), where, in the opinion of the returning officer, it is not possible or practical to resume the election proceedings within 10 working days after the original date set for the election, the returning officer shall notify the minister who shall order that the adjourned election be carried out in the zone or part of a zone at a time, date and place specified by him or her and subsection (6) shall apply to that election.

[99/05 s1](#)

Persons prohibited

20. (1) During the holding of the poll, a person, other than the officers appointed under section 7 to hold the election and an elector actually engaged in voting, is not entitled and shall not be permitted to be present in the polling place.

(2) The returning officer or deputy returning officer may order the removal from the polling booth of a person who is not entitled to be present or who, being so entitled, obstructs the voting, and the order shall be executed by a peace officer without the order being in writing and without a warrant.

[146/97 s20](#)

Examination of ballot box

21. At the hour fixed for opening the poll, the returning officer or deputy returning officer shall examine the ballot box in the presence of at least one other witness or see that the ballot box is empty, and shall immediately lock it, place it in view for the receipt of ballot papers and keep it locked until the close of the poll.

[146/97 s21](#)

Where one may vote

22. Notwithstanding subsection 4(3), the returning officer at the request of an elector who has been appointed deputy returning officer or poll clerk shall give a deputy returning officer or poll clerk a certificate in a form prescribed by the minister entitling the deputy returning officer or poll clerk to vote at the polling division where he or she is to be stationed during polling day.

[146/97 s22](#)

Presentation for vote

23. When a person claiming to be entitled to vote presents himself or herself at the polling booth for the purpose of voting, the person shall state his or her name and place of residence, and the returning officer or the deputy returning officer shall proceed as follows:

(a) the returning officer or deputy returning officer shall ascertain that the name of the person is entered or purports to be entered upon the copy of the list of electors for the polling division and if the name of the elector proposing to vote is not found on the list the person shall be so informed and, in accordance with subsection 11(2), be given a declaration to sign and, upon signing the declaration, shall be permitted to vote;

(b) the returning officer or deputy returning officer shall enter or cause to be entered in the poll book the name of the person presenting himself or herself at the polling booth for the purpose of voting; and

(c) the returning officer or deputy returning officer shall deliver to the person qualified to vote under paragraph (a) a ballot paper which the returning officer or deputy returning officer has initialled.

[146/97 s23](#)

Voting procedure

24. Upon receiving the ballot paper, the elector shall

(a) immediately proceed into a voting compartment of the polling booth;

(b) then immediately mark his or her ballot paper by marking a cross with a pencil on a part of the ballot paper containing the name or names of the candidate or candidates for whom the elector intends to vote;

(c) then fold the ballot paper so as to conceal the names of the candidates and the mark or marks upon the face of the paper;

(d) upon leaving the compartment, without showing the front to anyone or so displaying the ballot paper so as to make known the candidate or candidates for whom the elector voted, deposit the ballot paper in the ballot box; and

(e) then shall immediately leave the polling booth.

[146/97 s24](#)

Cancelled ballots

25. An elector who has inadvertently dealt with his or her ballot paper in a manner that it cannot be conveniently used is, upon returning it to the returning officer or deputy returning officer, entitled to obtain another ballot paper, and the returning officer or deputy returning officer shall write the word "cancelled" upon the ballot paper returned to the returning officer or deputy returning officer and preserve it.

[146/97 s25](#)

Incapacitated electors

- 26.** (1) When an elector
- (a) is incapacitated by blindness or other physical cause from marking his or her ballot paper; or
 - (b) claims to be unable to read,

the returning officer or deputy returning officer shall obtain from the elector an oral oath or solemn declaration or another declaration as prescribed by the minister.

(2) If an incapacitated elector referred to in subsection (1) is accompanied by a friend, the returning officer or deputy returning officer, if requested to do so by the elector, shall permit that friend to accompany the elector into a voting compartment for the purpose of marking the elector's ballot and the ballot paper when marked shall be delivered by the elector or the friend to the returning officer or the deputy returning officer to be placed in the ballot box.

(3) Except as provided in subsection (2), the returning officer or deputy returning officer shall mark the ballot of an elector referred to in subsection (1) in the manner directed by that elector, and shall immediately place the ballot paper in the ballot box.

(4) The returning officer or deputy returning officer shall make an entry opposite the name of the person in the poll book that the vote of the person is marked under this section and the reason why it is so marked.

[146/97 s26](#)

Close of poll

27. (1) Immediately after the close of the poll the returning officer or deputy returning officer shall first place all the cancelled ballot papers in a separate packet, seal it and shall then count the number of electors whose names appear on the poll book and sign the following certificate which shall be entered in the poll book on the line immediately below the name of the elector who voted last:

"I certify that the number of electors who voted at the election in this polling booth is (stating the number in words) and that A.B. was the last person who voted at this polling booth."

(2) Immediately after the certificate required by subsection (1) has been signed by the returning officer or deputy returning officer, the returning officer or deputy returning officer, in the presence and in full view of candidates or their agents who may be present, shall open the ballot box and count the number of votes for each candidate, giving full opportunity to those present to examine each ballot paper.

[146/97 s27](#)

Rejection of ballot papers

- 28.** (1) In counting the votes the returning officer or deputy returning officer shall reject a ballot paper
- (a) that has not been initialled by the returning officer or the deputy returning officer;
 - (b) where the elector has voted for more candidates than the number to be elected; or
 - (c) upon which there is a writing or mark by which the elector can be identified or that has been torn, defaced or otherwise dealt with by the elector in a manner so that the elector can be identified.
- (2) A ballot paper shall not be rejected under subsection (1) by reason only that it has been marked with a writing instrument other than a black lead pencil or it has a mark other than a cross, as long as the mark does not constitute identification of the elector.
- (3) Notwithstanding subsection (1), a ballot paper shall not be rejected in its entirety only because one or more of the votes on the ballot paper is rejected and in such a case the votes not rejected shall be counted.

[146/97 s28](#)

Objections to ballots

29. (1) The returning officer or deputy returning officer shall note in the poll book every objection taken to a ballot paper by a candidate or his or her agent and shall decide the objection, subject to review on recount or in a proceeding questioning the validity of the election.

(2) Each objection shall be numbered and a corresponding number shall be placed on the back of the ballot paper and initialled by the returning officer or the deputy returning officer and when the objection is upheld the word "rejected" or "partially rejected" shall be marked on the face of the ballot paper.

[146/97 s29](#)

Counting of ballot papers

30. All the ballot papers except those rejected shall be counted and an account shall be kept of the number of votes given and allowed for each candidate and all the ballot papers shall be put into separate packets as follows:

- (a) all the used ballot papers which have not been objected to and have been counted;
- (b) all the used ballot papers which have been objected to and have been counted;
- (c) all of the partially rejected ballot papers;
- (d) all the rejected ballot papers;
- (e) all the cancelled ballot papers;
- (f) all the ballot papers used but unmarked; and
- (g) all the unused ballot papers.

[146/97 s30](#)

Statement of particulars

31. (1) The returning officer or deputy returning officer shall make out a statement in duplicate of

- (a) the number of ballot papers received from the returning officer;
- (b) the number of used ballot papers which have not been objected to and have been counted;
- (c) the number of used ballot papers which have been objected to and have been counted;
- (d) the number of partially rejected ballot papers;
- (e) the number of rejected ballot papers;
- (f) the number of cancelled ballot papers;
- (g) the number of ballot papers used but not marked;
- (h) the number of ballot papers taken from the polling booth;
- (i) the number of unused ballot papers; and
- (j) the number of votes given for each candidate.

(2) The statement referred to in subsection (1) shall be signed by the returning officer or the deputy returning officer, and one copy shall be attached to the poll book and the other shall be delivered to the assistant director of finance and business administration for the board.

[146/97 s31](#)

Successful candidate declared

32. The returning officer, after he or she has received the ballot boxes and statements of the number of votes given at each polling booth, shall, without opening any of the ballot boxes, total the number of votes received by each candidate and at his or her office shall publicly declare the candidate receiving the largest number of votes, together with, in the case where more than one candidate is entitled to be elected, the candidate or candidates up to the remaining number entitled to election standing in order on the basis of the number of votes received, and the returning officer shall also put up in some conspicuous place a statement under his or her hand showing the number of votes for each candidate.

[146/97 s32](#)

Tie

33. If, upon the casting of votes, 2 or more candidates have an equal number of votes where both or all of the candidates cannot be elected, the returning officer shall write the names of those candidates separately on blank sheets of paper of equal size and of the same colour and texture, and after folding them in a uniform manner so that the names are concealed, deposit them in a receptacle and direct some person to withdraw one of the sheets and the returning officer shall declare to be elected the candidate whose name appears on the sheet thus drawn.

[146/97 s33](#)

Request for recount

34. (1) If, within 3 days after the declaration of an election, a candidate by himself or herself or his or her agent requests in writing a recount of the votes cast in the district for which the candidate was nominated, the returning officer shall appoint a time within 5 days after the receipt of all ballot boxes to recount the votes at the returning officer's office.

(2) The returning officer shall notify every candidate at the election of the request and of the time and place appointed to recount the votes.

(3) The returning officer and the person the returning officer appoints to assist the returning officer and each candidate or his or her agent or at least 3 electors of the district in which the election was held shall be present for the recounting of votes.

[146/97 s34](#)

Procedure on recount

35. (1) At the time and place appointed and in the presence of the persons referred to in section 34, the returning officer shall proceed to recount the votes in the ballot boxes returned to the returning officer and in so counting shall decide upon the validity of every ballot.

(2) When the recount is determined, the returning officer shall immediately declare to be elected the candidate having the largest number of votes, together with, in the case where more than one candidate is entitled to be elected, the candidate or candidates up to the remaining number entitled to election standing next in order on the basis of the number of votes received, and in the event of a tie the result of the election shall be determined in the manner prescribed in section 33.

[146/97 s35](#)

Offence

36. Every returning officer, deputy returning officer or poll clerk who is guilty of a wilful malfeasance or a wilful act or omission in contravention of these regulations is guilty of an offence and liable on summary conviction to a fine of not more than \$500.

[146/97 s36](#)

By-election

37. (1) Where the Lieutenant-Governor in Council orders that there be an election of a board or a by-election of a trustee under section 59 of the Act, the board shall call an election or by-election at the time the minister directs.

(2) A by-election shall be held in accordance with these regulations as if it were a general election except that if a list of electors was prepared for the previous general election then that list of electors shall be used in the by-election.

[146/97 s37](#)

Cost of election

38. The cost of an election or by-election conducted by a board under these regulations shall be paid from the funds of that board.

[146/97 s38](#)

Minister may set dates

39. Notwithstanding subsections 7(1) and (2), 8(1) and (4), 9(1), (2) and (5), 10(1) and (2), 12(2) and (3), section 13 and subsection 34(1), the minister may, with the approval of the Lieutenant-Governor in Council, set dates and prescribe time periods for the purposes of these regulations.

[146/97 s39](#)