



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

EDUCATION ACT EDUCATION AUTHORITY REGULATIONS

PLEASE NOTE

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For more information concerning the history of these regulations, please see the ***Table of Regulations*** on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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**EDUCATION ACT****Chapter E-.02****EDUCATION AUTHORITY REGULATIONS**

Pursuant to subsections 12(2) and 13(4) and section 107 of the *Education Act* R.S.P.E.I. 1988, Cap. E-.02, Council made the following regulations:

Interpretation**1. Definitions**

In these regulations,

- (a) “**Act**” means the *Education Act* R.S.P.E.I. 1988, Cap. E-.02, except where otherwise indicated;
- (b) “**Chief Electoral Officer**” means the Chief Electoral Officer appointed under the *Election Act* R.S.P.E.I. 1988, Cap. E-1.1;
- (c) revoked by EC424/22;
- (c.1) “**education authority election**” means an election of trustees for an education authority held in accordance with the Election Regulations (EC525/16);
- (d) “**Election Regulations**” means the Election Regulations made pursuant to the Act;
- (e) revoked by EC424/22;
- (f) “**trustee**” means a member of the board of trustees of an education authority. (EC524/16; 424/22)

Members of an Education Authority**2. Composition of Board**

- (1) The board of trustees of the French Language School Board shall be composed of nine trustees elected or appointed in accordance with the Election Regulations and these regulations.

Composition of Public Schools Branch

- (1.1) The board of trustees of the Public Schools Branch shall be composed of 11 trustees elected or appointed in accordance with the Election Regulations and these regulations.

Election of chairperson and vice-chairperson

- (2) At its first meeting following an education authority election, the board of trustees shall elect from among its members a chairperson and a vice-chairperson to serve for a term determined by the board.

Qualifications

- (3) Subject to subsection (4), a person is qualified to hold office as a trustee if the person is
- (a) a Canadian citizen;
 - (b) at least eighteen years of age;
 - (c) a resident of the electoral zone, as described in the Election Regulations, from which the person is elected or appointed; and
 - (d) eligible to vote in a school board election under the Election Regulations.

Persons not qualified

- (4) A person is not qualified to hold office as a trustee if the person
- (a) is an employee of an education authority;
 - (b) is an employee of the Department who, in the opinion of the Minister, has a potential conflict of interest;
 - (c) has been disqualified by resolution of the board of trustees in accordance with subsection 4(4) within the past five years;
 - (d) has been found guilty of an offence under the Act or its regulations within the past five years; or
 - (e) has been found guilty or convicted of an indictable offence for which an absolute discharge or a pardon has not been granted or a record suspension has not been ordered under the *Criminal Records Act* (Canada). (EC524/16; 424/22; 360/24)

3. Term of office

- (1) The term of office of a trustee commences on November 1 following an education authority election and ends on October 31 of the next year in which an education authority election is held.

Exception for 2022

- (2) The term of office of a trustee
- (a) of the Public Schools Branch elected or appointed pursuant to the education authority election in 2022 commences on January 1, 2023, and ends on October 31 of the next year in which an education authority election is held; and
 - (b) of the French Language School Board elected or appointed pursuant to the education authority election in 2022 commences 10 days after election day and ends on October 31 of the next year in which an education authority election is held.

Number of terms - appointed trustee

- (3) An appointed trustee of the Public Schools Branch may be reappointed, but shall not serve more than two consecutive terms. (EC524/16; 424/22; 743/22)

4. Vacancy

- (1) A trustee's position is considered vacant where
- (a) the trustee resigns in accordance with subsection (2);

- (b) the trustee is disqualified from holding office under subsection (3);
- (c) the Minister makes an order under subsection 38(7) of the Act vacating the trustee's position; or
- (d) the trustee ceases to hold office under subsection 39(3) of the Act or for any other reason during the trustee's term of office.

Resignation of trustee

- (2) A trustee may resign from office by giving notice in writing to the chairperson or vice-chairperson of the board of trustees.

Disqualification of trustee

- (3) A trustee becomes disqualified from holding office as a trustee if the trustee
 - (a) ceases to be a resident of the electoral zone, as described in the Election Regulations, from which the trustee was elected or appointed;
 - (b) becomes an employee of the education authority;
 - (c) becomes an employee of the Department who, in the opinion of the Minister, has a potential conflict of interest;
 - (d) becomes incapable of acting as a trustee;
 - (e) has a financial interest in a contract with an education authority, other than a contract of employment with the trustee's spouse, child, parent or spouse's parent, and is in contravention of section 10 in relation to the contract;
 - (f) is disqualified by resolution of the board of trustees in accordance with subsection (4);
 - (g) is found guilty of an offence under the Act or its regulations; or
 - (h) is found guilty or convicted of an indictable offence for which an absolute discharge or a pardon has not been granted or a record suspension has not been ordered under the *Criminal Records Act* (Canada).

Disqualification by resolution

- (4) Where a trustee has been absent without reasonable cause from three consecutive meetings of the board of trustees, of which the trustee received proper notice, the board of trustees may disqualify the trustee by resolution and shall serve notice of the disqualification on the trustee.
(EC524/16; 424/22; 360/24)

5. Filling a vacancy by by-election

- (1) Subject to subsection (4), where a trustee's position becomes vacant in accordance with subsection 4(1) during the first year of the trustee's term of office, the Chief Electoral Officer shall hold a by-election in accordance with the Election Regulations to fill the vacancy.

Filling a vacancy by appointment

- (2) Subject to subsection (4), the Minister may fill a vacancy on the board of trustees by appointment where
 - (a) a by-election held pursuant to subsection (1) does not fill the vacancy; or
 - (b) a trustee's position becomes vacant in accordance with subsection 4(1) after a trustee has served more than one year of the term of office.

Filling a vacancy means serving balance of term

- (3) For greater certainty, a person elected or appointed as a trustee under this section is elected or appointed to serve the balance of the term of the trustee the person is replacing.

Vacancy not filled if official trustee

- (4) Where a trustee's position becomes vacant because the trustee ceases to hold office under subsection 39(3) of the Act, the vacancy shall not be filled until the official trustee ceases to hold office.

Resignation in state of emergency

- (5) Notwithstanding subsection (1), where
- (a) a trustee's position becomes vacant by resignation under clause 4(1)(a) during the first year of the trustee's term of office; and
 - (b) the Chief Electoral Officer advises the board of trustees that the Chief Electoral Officer is unable to hold a by-election under subsection (1) due to
 - (i) a state of public health emergency, declared under the *Public Health Act* R.S.P.E.I. 1988, Cap. P-30.1, or
 - (ii) a state of emergency or local emergency, declared under the *Emergency Measures Act* R.S.P.E.I. 1988, Cap. E-6.1,

the Minister may fill the vacancy by appointing a trustee from a list of nominees provided by the board of trustees. (EC524/16; 492/20; 424/22)

6. Qualifications

Revoked by EC242/22 (EC524/16; 242/22)

7. Vacancy

Revoked by EC242/22 (EC524/16; 242/22)

Responsibilities and Remuneration of Members**8. Responsibilities of members**

A member of an education authority has the following responsibilities:

- (a) to attend meetings of the members of the education authority and exercise the powers and duties of a member of the education authority in good faith;
- (b) to comply with
 - (i) the Act and the regulations,
 - (ii) an order of the Minister made pursuant to subsection 38(6) of the Act and directed to the member,
 - (iii) the Minister's directives, and
 - (iv) the policies of the education authority. (EC524/16)

9. Remuneration

- (1) Subject to subsections (2) and (3), an education authority may provide members of the education authority with such remuneration as the Minister may determine.

Maximum remuneration for trustees

- (2) The total amount of remuneration paid each year
- (a) with respect to the trustees of the French Language School Board shall not exceed \$35,000; and
 - (b) with respect to the trustees of the Public Schools Branch shall not exceed \$42,779.

Remuneration while training

- (2.1) The trustees of the Public Schools Branch elected in or appointed pursuant to the education authority election held on October 21, 2022, shall be paid for the time they spend in training from November 1, 2022, to December 31, 2022, at the rate set out in clause (2)(b).

Maximum remuneration for directors

- (3) Revoked by EC424/22.

Remuneration annually or per meeting

- (4) An education authority may provide remuneration under this section annually or per meeting attended by a member of the education authority.

Rates of remuneration

- (5) An education authority may establish different rates of remuneration for
- (a) the chairperson, committee chairpersons and other officers or members of the education authority; and
 - (b) regular meetings and committee meetings.

Designated portion for expenses

- (6) An amount not exceeding one-third of the total remuneration paid to a member of an education authority in any year shall be designated as having been paid in respect of general expenses incurred by the member, incidental and necessary to the discharge of the member's duties.

Deduction and remittance of tax

- (7) A member of an education authority may request the education authority to deduct a portion of the member's remuneration for tax purposes and, where a request is made, the education authority shall deduct the amounts requested and remit them to the Canada Revenue Agency on behalf of the member.

Expenses in addition to remuneration

- (8) In addition to remuneration payable to a member of the education authority under this section, the education authority shall pay for expenses incurred by a member for travel, meals, accommodation and other incidental expenses, approved by the education authority, in accordance with the rates applicable to provincial government employees. (EC524/16; 424/22)

10. Duties of member with pecuniary interest

- (1) Subject to section 11, where a member of an education authority has a pecuniary interest in a matter and is present at a meeting of the education authority in which the matter is considered, the member
- (a) shall disclose the general nature of the pecuniary interest prior to any discussion of the matter;
 - (b) shall not take part in the discussion of or vote on any question in respect of the matter;

- (c) shall not attempt in any way, whether before, during or after the meeting, to influence any voting on any question in respect of the matter; and
- (d) subject to subsection (2), shall leave the room in which the meeting is being held until the discussion and voting on the matter are concluded.

Exception

- (2) Clause 1(d) does not apply where the matter in respect of which the member of the education authority has a pecuniary interest is the payment of an account for which funds have previously been committed.

Idem

- (3) Subject to section 11, where a member of an education authority has a pecuniary interest in a matter but is not present at a meeting of the education authority in which the matter is considered, the member shall disclose the pecuniary interest and otherwise comply with the requirements of this section at the next meeting of the education authority that the member attends.

Record in minutes

- (4) The abstention of a member of an education authority under subsection (1) and the disclosure of a member's pecuniary interests under subsections (1) or (3) shall be recorded in the minutes of the meeting. (EC524/16)

11. Exception to duties

- (1) Section 10 does not apply with respect to a pecuniary interest in a matter that a member of an education authority may have
 - (a) as an elector of an education authority;
 - (b) as the representative of the education authority on any commission, committee or other body;
 - (c) by entitlement to receive an allowance, honorarium, indemnity, benefit, expense or remuneration in respect of the matter;
 - (d) as an employee of the Department;
 - (e) as an employee of the Government of Canada, the Government of Prince Edward Island, other than the Department, or a federal or provincial Crown corporation or agency, other than an education authority, except with respect to a matter directly affecting the department, corporation or agency of which the member is an employee; or
 - (f) as a member, but not an employee or director, of a credit union or a co-operative formed under an Act or legislation enacted by the Parliament of Canada.

Idem

- (2) Section 10 does not apply with respect to a pecuniary interest of a member of an education authority that is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member. (EC524/16; 424/22)

12. Deemed pecuniary interests

For the purposes of sections 10 and 11, the pecuniary interests of a member of an education authority are deemed to include the pecuniary interests, known to the member or which the member ought reasonably to have known, of the member's spouse, child, parent or spouse's parent. (EC524/16)

Meetings

13. Duties respecting meetings

- (1) The members of an education authority shall, in respect of meetings of the members,
 - (a) establish policies and procedures respecting the conduct of meetings;
 - (b) give public notice of the date, time and location of each meeting; and
 - (c) hold an annual meeting prior to the submission of the annual report of the education authority to the Minister.

Meeting open to public

- (2) Subject to subsection (3), a meeting of the members of an education authority shall be open to the public.

Exception

- (3) Where, in the opinion of the members of an education authority, it is in the public interest or for the purpose of protecting the privacy of an individual student or employee, the members may exclude persons other than members from all or part of a meeting of the members of the education authority.

Limitation on actions by resolution

- (4) Where persons other than members are excluded from a meeting of the members of an education authority, the members may not take any action by resolution except on matters affecting an individual student or employee or for the purpose of opening the meeting to the public. (EC524/16)

French Language School Board

14. Responsibilities of French Language School Board

In addition to the responsibilities of an education authority described in subsections 20(2) and (3) of the Act and any other regulations made pursuant to the Act, the French Language School Board has the following responsibilities:

- (a) to provide for the recruitment, employment, management and evaluation of the staff of the education authority and identification of staff development needs;
- (b) to provide for the transportation of students to and from school;
- (c) to ensure the development of and approve school effectiveness plans;
- (d) to monitor and evaluate the effectiveness of schools;
- (e) to follow the direction of the Minister respecting the delivery of professional development to address instructional personnel development needs;
- (f) to follow the direction of the Minister respecting the implementation of the provincial programs of study and education programs prescribed, approved or authorized pursuant to the Act. (EC524/16; 424/22)

Public Schools Branch

15. Responsibilities of Public Schools Branch

- (1) In addition to the responsibilities of an education authority described in subsections 20(2) of the Act and any other regulations made pursuant to the Act, the Public Schools Branch has the following responsibilities:
- (a) to provide for the recruitment, employment, management and evaluation of the staff of the education authority;
 - (b) to provide for the transportation of students to and from school;
 - (c) to ensure the development of and approve school effectiveness plans;
 - (d) to follow the direction of the Minister respecting the monitoring and evaluation of the effectiveness of schools;
 - (e) to follow the direction of the Minister respecting the delivery of professional development to address instructional personnel development needs;
 - (f) to follow the direction of the Minister respecting the implementation of the provincial programs of study and education programs prescribed, approved or authorized pursuant to the Act.

Responsibilities of the Director

- (2) Revoked by EC424/22. (EC524/16; 424/22)

Closure of a School

16. Temporary closure

An education authority may close a school operated by the education authority for a specified period if

- (a) the education authority has arranged for the accommodation of the students of the school in another facility; and
- (b) the Minister has approved the closure of the school for the specified period. (EC524/16)

17. Permanent closure - policy

- (1) An education authority shall develop a policy identifying the factors to be considered by the education authority with respect to the permanent closure of a school operated by the education authority.

Policy to include factors

- (2) The factors to be included in a policy developed by the education authority pursuant to subsection (1) shall include
- (a) the possible effects of the permanent closure of the school on
 - (i) the educational opportunities available to students in that school and in other schools operated by that education authority or any other education authority,
 - (ii) the costs of providing educational services to the students affected, and
 - (iii) the affected communities;
 - (b) enrolment and population patterns and projections;

- (c) information available to the education authority regarding future developments in the community; and
- (d) in the case of a school in the French school system,
 - (i) the right of eligible parents to enrol their children in French first language education under section 23 of the *Canadian Charter of Rights and Freedoms*, and
 - (ii) the possible effects of the permanent closure of the school with respect to French language and culture in an area of the province.

Additional components of policy

- (3) The policy developed by the education authority pursuant to subsection (1) shall provide for
 - (a) a defined time period during which persons may provide input following the public release of a report referred to in section 18;
 - (b) the manner in which notice shall be made to the public of
 - (i) the release of a report referred to in section 18, and
 - (ii) opportunities available to persons to provide input in advance of the education authority's final decision regarding whether to request the approval of the Lieutenant Governor in Council to permanently close a school; and
 - (c) the date in a school year by which the education authority shall make its final decision regarding whether to request the approval of the Lieutenant Governor in Council to permanently close a school. (EC524/16)

18. Report by education authority

- (1) An education authority shall prepare a report identifying any schools operated by the education authority to be considered for permanent closure.

Copy to each member

- (2) The Director shall ensure each member of the education authority has a copy of the report.

Tabling and release of report

- (3) The report shall be tabled at a meeting of the members of the education authority and released for public input in accordance with the policy developed by the education authority under section 17.

Public access

- (4) The education authority shall ensure public access to the report by
 - (a) making copies available for review at its offices or other locations convenient for the public;
 - (b) providing a reasonable number of copies to interested persons either without charge or at a price not greater than the cost of printing the report; and
 - (c) posting the report on the education authority website. (EC524/16)

19. Public input

- (1) Following the public release of a report in accordance with section 18, the education authority shall invite public input, provide for the receipt of written briefs and hold at least one public meeting to consider the report.

Notice in accordance with policy

- (2) Notice of the invitation for public input and written briefs and the public meeting referred to in subsection (1) shall be given in accordance with the policy developed by the education authority under section 17. *(EC524/16)*

20. Decision

An education authority shall make its final decision regarding whether to request the approval of the Lieutenant Governor in Council to permanently close a school operated by the education authority, in accordance with the policy developed by the education authority under section 17. *(EC524/16)*

21. Exception, risk to health and safety

Despite any other provision in these regulations, an education authority may immediately request the approval of the Lieutenant Governor in Council to permanently close a school operated by the education authority, where continuing to operate the school would create a significant risk to the health or safety of students, education authority employees and other persons on the school premises. *(EC524/16)*

22. Public information

An education authority shall make the following information available for examination by any person at all reasonable times:

- (a) policies and procedures of the education authority respecting the permanent closure of a school;
- (b) any report that the education authority considers in making its final decision respecting the permanent closure of a school;
- (c) these regulations. *(EC524/16)*

23. Report following closure

- (1) After an education authority permanently closes a school, the Director of the education authority shall prepare a report respecting the effects of the permanent closure of the school.

Deadline for submission to members

- (2) The Director shall submit the report referred to in subsection (1) to the members of the education authority not later than December 31 following the permanent closure of the school. *(EC524/16)*

Financial Administration

24. Funding requirements

An education authority shall submit to the Minister, on or before October 1 each year, information respecting the funding requirements of the education authority for the next fiscal year. *(EC524/16)*

25. Required operating systems

An education authority shall maintain the following administrative and financial operating control systems and safeguards:

- (a) a financial information system, using a chart of accounts approved by the Minister;
- (b) a common payroll system, using an account code structure approved by the Minister;
- (c) a student record system, approved by the Minister;
- (d) any other system deemed necessary by the education authority or directed by the Minister. (EC524/16)

26. Financial institutions

An education authority may maintain accounts in the following types of financial institutions:

- (a) a chartered bank, as defined in the *Bank Act* (Canada);
- (b) a credit union, as defined in the *Credit Unions Act* R.S.P.E.I. 1988, Cap. C-29.1;
- (c) a trust company, as defined in the *Trust Companies Act* (Canada). (EC524/16)

27. Capital construction project defined

- (1) For the purposes of subsection 93(3) of the Act and these regulations, “capital construction project” means

- (a) the construction of a school building;
- (b) the construction of an addition to a school building; or
- (c) any major repairs or maintenance projects for school premises that have a projected cost exceeding \$10,000.

Request for capital construction project

- (2) The members of an education authority may, on or before August 1 in a year, by resolution, request the Minister to recommend to the Minister of Transportation and Infrastructure the undertaking of a capital construction project during the next fiscal year.

Emergency request

- (3) Despite subsection (2), where a capital construction project is urgent, the members of an education authority may, at any time, by resolution, request the Minister to recommend to the Minister of Transportation and Infrastructure the undertaking of a capital construction project.

Idem

- (4) A request referred to in subsection (2) or (3) shall contain the following information:
 - (a) the relationship of the project to the overall facilities plan for the education authority, including the relative priority of the project;
 - (b) a complete description of the need for and the nature of the project;
 - (c) a complete description of existing and proposed changes to school attendance zones;
 - (d) an estimate of costs;
 - (e) information on the feasibility of alternatives to the project;
 - (f) such other information as may be required by the Minister.

Prohibition

- (5) An education authority shall not undertake a capital construction project. (EC524/16; 47/20; 424/22)

28. Insurance

- (1) For the purposes of section 94 of the Act, the policies of insurance an education authority shall keep in force for liability arising from claims for damages to persons or property as described in that section shall include the following types of insurance, as defined in the *Insurance Act* R.S.P.E.I. 1988, Cap. I-4:
- (a) automobile insurance;
 - (b) boiler and machinery insurance;
 - (c) property damage insurance.

Minimum coverage for damages to persons

- (2) A policy of insurance an education authority keeps in force for liability arising from claims for damages to persons shall include coverage for that purpose in an amount directed by the Minister.

Coverage for damage to property

- (3) A policy of insurance an education authority keeps in force for liability arising from claims for damages to property shall include coverage for that purpose in an amount reflective of the value of the property insured.

Insurer

- (4) Subject to subsection (5), an education authority may obtain a policy of insurance from the Treasury Board under Part II of the *Financial Administration Act* R.S.P.E.I. 1988, Cap. F-9, or another insurer approved by the Minister.

Policy period more than five years

- (5) An education authority shall not obtain a policy of insurance covering a period of more than five years for liability arising from claims for damages to property from an insurer other than the Treasury Board. (EC524/16)

29. Revocation

The *School Act Finance Regulations* (EC336/96) and *School Act School Closure Regulations* (EC483/98) are revoked. (EC524/16)