

To Abstain or Not to Abstain, That is the Question



Here's a quick multiple choice test for you. When a motion comes to a vote at your board table and you abstain from casting a vote, your non-vote actually:

- a. Helps pass the motion
- b. Helps defeat the motion
- c. Has no impact on the fate of the motion

The correct answer? Definitely A . . . or maybe B . . . but possibly C. In other words, it all depends, and what it all depends on are your procedural authority and by-law.

Unlike some provinces—Alberta, for example—Manitoba's *Public Schools Act* does not prohibit school trustees from abstaining on votes. Other than those few times when the *PSA* requires an abstention—such as in a conflict of interest or code of conduct situation involving the individual trustee—the legislation is silent. So, school boards are free to chart their own course when it comes to abstentions, which begs the question: what course *should* that be?

Let's start by considering *why* someone might want to abstain from a vote. Here are three of the more common reasons.

- An abstention may indicate a trustee's ambivalence about the measure, or even mild disapproval that does not rise to the level of active opposition.
- A trustee may abstain from a vote when they know their position on a matter runs contrary to the majority view. In that case, they may feel that it's pointless to vote, or perhaps not politically expedient to do so.
- A trustee may abstain when they do not feel adequately informed about the issue at hand, or have not participated in relevant discussions.

When it comes to elected officials—including school trustees—some of these reasons may be more valid than others. Don't think you have enough information, but unable to convince your board colleagues to delay the decision while administration prepares that one, last report? Then abstention may be the way to go, rather than contributing to what may be an uninformed decision. Missed the last meeting, and a lot of relevant discussion on the issue, because of that nasty flu bug? If you can't find a way to get up to speed on the matter, you may be best advised to leave the decision to those who have given it more consideration. Don't want to go on record as supporting an unpopular decision, or just don't really care? Well, you were elected to lead, to make decisions—even unpopular ones—and to care about kids and education. So, if these are your reasons for not voting, you may want to rethink that decision.

Think about these and any other reasons a trustee might have for abstaining, other than those times when he or she is legally required to do so because of conflict of interest or code of conduct situations. Would you describe any of those reasons as legitimate? If so, you need to ensure that your board procedures actually enable an abstention, without misrepresenting anyone's intention or inadvertently affecting the vote's outcome.

In order to fully understand the impact of an abstention on a vote, you need to be clear about the basis on which a vote is decided at your board table. To keep things simple, let's restrict the discussion to a straight-forward motion that will be decided by a simple majority. Depending on your procedural by-law, a motion will pass if it receives the support of *either* a majority of those present, or a majority of those present *and* voting. If everyone who is eligible to vote does so, there will be no difference in the outcome of a vote conducted in accordance with either of these criteria. However, once we start factoring in some abstentions, the situation changes. Let's look at some numbers to illustrate this point.

Let's consider a nine-member school board, with all trustees present, and none disqualified from voting due to conflict of interest or code of conduct issues. A majority of those present is five, and assuming they all vote on an issue that comes before them, so is a majority of those present and voting. In either case, an affirmative vote of five trustees carries the motion.

Now let's say that all nine trustees are present, but two choose not to vote on the issue, for whatever reason. They abstain. Of the seven remaining trustees, four vote in favour of the motion, and three are opposed. Does the motion pass? Remember the multiple choice test mentioned a few minutes ago? Here's where the "it depends" answer comes into play.

If the basis for determining a vote is a majority of those present, a four to three vote with nine members in attendance means that the motion is defeated. It's as if those who abstained actually voted against the motion, which is why you may sometimes hear that an abstention is a vote on the negative side.

But if the basis for determining the outcome of a vote is a majority of those present and voting, a four to three vote with nine members in attendance means that the motion passes. Why? Because what constitutes a majority is determined by the number of individuals who meet both conditions—they have to be present, but they also have to vote. In this case, only seven members met both criteria, and a majority of seven is four. If you ever hear that an abstention is a vote on the prevailing (or winning) side, chances are it was determined on the basis of those present and voting.

Once you've come to a conclusion about possible, legitimate reasons for abstaining—if any—and re-examined the criteria on which the outcome of a vote is determined at your board table, you need to confirm that your procedures and your beliefs are complementary.

Did you conclude that there are no legitimate reasons for abstaining, and that every trustee must vote on every issue, unless they are legally barred from doing so? Okay . . . but how are you going to compel them to do so, short of making abstention an actionable code of conduct violation? The difficulty in enforcing a "no abstaining" rule is why Robert's Rules of Order doesn't recommend that procedural course of action.

At the other extreme, perhaps your procedural authority is Robert or Robert-like in that it allows abstentions and your by-law is silent on the matter. If the experience at your board table is that the ability to abstain is not being over-used or abused, you may be inclined to leave things as they are.

However, there is always value in anticipating future problems, and taking steps to guard against them before they arise. Remember that old "an ounce of prevention is worth a pound of cure" adage?

There may be a middle ground that you want to consider (if you haven't already done so) between either disallowing all abstentions or setting no criteria as to when they can or cannot be used. Some school boards permit abstentions with permission, and this approach does have a number of advantages.

First off, it requires school boards to have a conversation about what it means to abstain, and what reasons are valid. That conversation will guide the chair when ruling on a request to abstain.

Secondly, it transforms an abstention from something that could be taken as a sign of indifference into a conscious and deliberate act. Rather than simply not voting, the abstaining trustee must make clear his or her reasons for not doing so, which will then be assessed by either the chair or the entire board.

Finally, in the event that permission to abstain is not granted, the very process of having to rule on the request will give the chair an opportunity to clearly state the effect of an unauthorized abstention on the vote. If the abstention is authorized, those trustees who are voting will determine the outcome of any vote. If the abstention is not authorized, the non-vote will be counted in accordance with the board's procedural by-law as either a negative vote or as a vote on the prevailing side. Once the impact of the unauthorized abstention is made clear—that is, that it will still affect whether the motion is carried or defeated—the trustee may decide to take a more active role in the decision-making process, and actually cast his or her vote.

If you have any questions about this Division Dispatch, or any procedural matters that arise at your board table, contact Heather Demetriooff at the Manitoba School Boards Association office.