

Short Answers to Common Questions Voting & Meeting/Interpersonal Dynamics



The information in this video series is drawn from *The Public Schools Act* and Robert's Rules of Order, which is the parliamentary authority most commonly used by school boards in the province. Different parliamentary authorities or a school board's own procedural by-law may dictate different procedures in some instances, but provisions of *The Public Schools Act* apply to all boards, and may not be over-ridden by your own by-law or parliamentary authority.

PART 1: VOTING

1. What do we do if there is a tie vote?

If the tie vote occurs on a motion, the motion is lost, or in the rather archaic language of Section 31 of *The Public Schools Act*, it "shall be deemed to be negated."

If the tie occurs in a vote for chair or vice-chair, *The Public Schools Act* is also clear. When a tie occurs, "the school board shall determine by lot who shall cast the deciding vote." Many school boards have included a point in their procedural by-law about the process they will actually use. The most common method is the discrete marking of one of the ballots used for the election. If a tie occurs, the marked ballot is examined, and the candidate for whom it was cast is declared the winner.

One further note about election ties—don't be too quick to declare one! If the first ballot results in a tie but there are more than two candidates, the usual procedure would be to drop off the candidate with the fewest votes, and conduct a second ballot. If a ballot results in a tie between the only two candidates, you may still want to conduct one more ballot, just to confirm that opinions are equally divided. But when all else fails and the tie prevails, the provisions of *The Public Schools Act* must be followed. Any other election procedures should be specified in your rules of procedure.

2. Can the chair vote to make or break a tie?

Maybe in some organizations, but not on Manitoba's public school boards.

Section 31 of *The Public Schools Act* is very clear: The chairman shall preside at the meetings of the school board and may vote with the other members on all questions and any question on which there is an equality of votes shall be deemed to be negated. The key phrase here is "may vote **with the other members**." In order to make or break a tie, the vote, minus that of the chair, would first need to be tallied, at which time the chair would decide whether or not to cast a vote. Under *The Public Schools Act*, that's not allowed—if the chair is going to vote, the chair needs to do so along with everyone else.

It's also worth noting the wording is that the chair **may** vote, meaning it is at the discretion of the chair, on a case by case basis, whether or not to cast a vote or abstain. This means that a procedural by-law that either requires the chair to vote, or prohibits the chair from doing so, contravenes *The Public Schools Act*, and should be revised.

3. Can I abstain from a vote?

There are circumstances where a trustee must abstain from a vote, such as those instances where they would otherwise be in contravention of conflict of interest or code of conduct rules—but that’s not what we’re talking about here! *The Public Schools Act* does not prohibit a trustee from abstaining from a vote, so it is possible. Some school boards have enacted rules of procedure that allow abstentions only with the approval of the board chair, and for specific reasons, but that can be difficult to enforce, and may have the unforeseen effect of forcing someone to vote without having given the matter due consideration.

So, rather than asking yourself whether you can abstain, rephrase the question to “should I abstain?” Here are some things to consider. Do you need more information before you can make a good decision? Then why not ask that the motion be deferred? Do you know what impact your abstention will have on the outcome of the vote? Will it be treated as a negative vote, an affirmative vote, or as if you were absent altogether? Your procedural by-law should give you guidance in this regard. And finally, is an abstention fair to the community members that elected you? The decision may be tough, but you were elected to make tough decisions.

For a more comprehensive examination of this issue, check out our Division Dispatch devoted to this topic.

4. I think the minutes need to show how each trustee votes on important questions. How can I make that happen?

A board’s usual way of voting may be outlined in its procedural by-law, or it may simply be an accepted convention of the board. Most commonly, boards will vote by a show of hands. This may be changed for the vote on an especially important question, but not at the request of one trustee.

If you want to have everyone’s vote recorded—usually called a roll call vote—you need to make a motion to that effect before the question on the main motion is called. This is an incidental motion that needs to be seconded and supported by the majority of the board. If it passes, each trustee’s name will be called *in turn*, and their vote in favour or against will be recorded in the minutes. Abstentions may be noted as such, or those abstaining simply be marked “present.”

If the motion to change the method of voting is defeated, you may still be able to have your own vote recorded by making that request of the chair. Generally, such a request should be granted, but you have to ask before the vote is taken, so the recording secretary can note how you actually vote.

5. The majority of trustees at our last meeting voted in favour of my motion to overturn a previous decision. Why did the chair declare the motion lost?

A school board in Manitoba is bound by very specific rules when it comes to changing its collective mind. These rules are laid out in Sections 33(2) and 33(3) of *The Public Schools Act*. These sections speak to reversing decisions, which equates to rescinding or reconsidering a decision under Robert’s Rules of Order.

In order to reverse a decision, two conditions must be met. First, written notice of a proposal to reverse the decision must be given from at least one meeting to another. Given that your motion wasn’t ruled out of order, let’s assume that proper notice was given. The second condition is that a majority of the total number of trustees for the division must vote in favour of the reversal. If every trustee on the board was at the meeting and voted, a majority vote would carry the reversal. But if some trustees were absent, or if some who were there abstained from voting, the majority that you mention may have been less than a majority of the total number of trustees for the board. As an example, if your board has nine trustees but only seven were at this particular meeting, a vote of four to three in favour of the reversal would not carry the motion. Five votes would be required.

PART 2: MEETING AND INTERPERSONAL DYNAMICS

1. One of the trustees on my board keeps bringing up the same topic, meeting after meeting. We've already made our decision! Can I stop that from happening?

There is a classification of motions called dilatory motions. A dilatory motion is anything that seeks to obstruct or thwart the will of the assembly—or in this case, the school board. Any motion that is a deliberate attempt to waste time is dilatory. A motion that revisits a previous decision of the board, without providing any new information about the matter, is an example of such a time-waster. Such motions, also called improper motions, should be ruled out of order by the chair.

But because good parliamentary procedure is supposed to protect the rights of both the minority and the majority, there are some rules that need to be observed when it comes to ruling a motion dilatory or improper.

First of all, nothing stops a trustee from seeking the reversal of a decision, in accordance with *The Public Schools Act*—but they only get to do that once. If the motion to reverse is defeated, any attempt to bring it back within the same session is improper or dilatory. This brings us to the second rule. Robert is clear that a motion that presents the same or practically the same question as a motion previously decided **in the same session** is out of order. *The Public Schools Act* does not define what constitutes a session for school board operations. We suggest that you do so in your procedural by-law, and that you define a session as the period of time from one inaugural meeting to the next.

2. Can I rule one of my board colleagues out of order?

The only person who gets to rule someone out of order, or make any other ruling for that matter, is the person who is chairing the meeting. However, you can draw the chair's attention to a rules violation, which serves as an invitation for the chair to rule on the infraction.

To do this, you rise to a point of order, and present a brief explanation of why you think the rules have been broken. This is one of the few instances where you can actually interrupt someone who has the floor, because you must raise the point of order at the time the rule is broken. If the chair agrees that a violation has occurred, the formal response is that the point is well-taken, and the chair will make the appropriate ruling. If the chair disagrees, then the point is not well-taken, and the meeting resumes as if no point of order had been raised.

Still think there was a rules violation? Then you can appeal from the decision of the chair, and see if a majority of your fellow trustees agree with you. If so, the decision of the chair that there was no rules violation is overturned.

3. I don't think our chair is up to the job. What can I do about that?

First, figure out the basis for your concern. Has the chair made some recent rulings with which you disagree? If that's the case, there is a procedural solution. You can express your disagreement by appealing from the decision of the chair. Sometimes referred to as challenging the decision, this is an incidental motion that effectively enables you to voice your disagreement. If one of your fellow-trustees shares your concern and that trustee seconds your motion to appeal, the motion goes to a vote. If a majority of the board members agree and support your motion, the original decision of the chair is overturned.

If your concern about the chair's performance is more general, you may want to consider ensuring that new or inexperienced chairs can access appropriate training. The Manitoba School Boards Association offers a session for chairs after each general school trustee election, and can offer additional training upon request. The Manitoba Association of Parliamentarians can also offer support.

What you can't do is remove a chair from office—there is no such provision in *The Public Schools Act*, which simply indicates that the chair and vice-chair will hold office until the next election for those positions. In extreme circumstances, you could ask the chair to resign, but unless the chair is willing to do so voluntarily, the board will have to wait until the next inaugural meeting to elect a new chair.

4. Can the board have an in camera meeting without the superintendent being there?

The real question here isn't so much whether a board can meet without its superintendent—the answer to that is “yes”—but whether it should do so. The answer to the “should” question lies within your response to another question: why do you want to meet without such a key member of the leadership team being present?

If the answer to the “why” question falls within the realm of personnel matters, then your reason for wanting to meet without the superintendent present is quite likely valid. For instance, are you planning for an upcoming performance review, or are you at the start of contract negotiations with the incumbent? If so, it probably make sense to meet, at least in the early stages of these types of processes, on your own as a board, or with only other, select members of administration present.

Some of the other reasons for wanting to meet without the superintendent, however, do not necessarily stand up to close scrutiny. For example, some trustees may feel that the board is overly influenced by the superintendent, or that the superintendent is making decisions that rightly are the purview of the board. Situations like these require greater communication between board and administration, not less. Ignoring the problem by excluding the superintendent from a meeting is not the answer, but unfortunately it is a good first step towards creating a dysfunctional school division leadership team.

5. What do I do when I think someone has violated our code of conduct?

Under *The Public Schools Act*, every school board is required to have a trustee code of conduct. The legislation outlines the bare minimum that the code must contain, the vote needed to pass a serious sanction, and a few other critical details. However, it does not provide much in the way of guidance as to how to launch, investigate, and respond to a code of conduct complaint. This is why clarity in school board procedures relating to code of conduct violations is critical.

As a starting point, your procedures need to state clearly who to approach if a trustee suspects a code of conduct violation, and there should be more than a single option here. Codes may say that the complaints are made to the chair, but what if the chair is the target of the complaint? The code must also outline the process that the recipient of the complaint is to follow. Is it acceptable that the chair or other recipient approach the accused privately and attempt to remediate the concern informally, or must it go directly to the entire board? Can the complainant remain anonymous? Will the complaint be discussed in camera, or in public session, remembering that the vote on any such sanction must be in an open meeting.

So, the short answer to the question of what to do if someone has violated your code of conduct is check your internal procedures for guidance. But ideally, check them before you are faced with a violation, as the best time to establish a reasoned and logical approach to a potential situation is any time other than when you are in the midst of it!