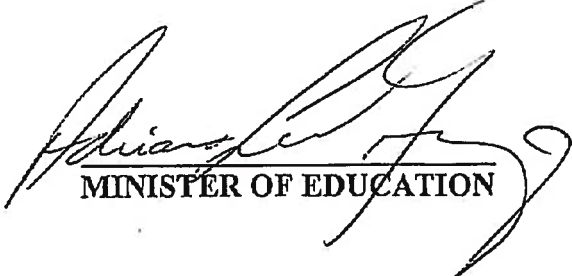


ALBERTA REGULATION 88/2019
FILED ON August 16 2019

GOVERNMENT OF ALBERTA
DEPARTMENT OF EDUCATION
MINISTERIAL ORDER (# 022 / 2019)

I, Adriana LaGrange, Minister of Education, pursuant to Sections 100, 101, 103, 104, 106, 107 and 110 of the **Education Act**, make the Order set out in the attached Appendix, being the *Establishment of Separate School Districts Regulation*.

DATED at Edmonton, Alberta August 15, 2019.


MINISTER OF EDUCATION

APPENDIX

Education Act

ESTABLISHMENT OF SEPARATE SCHOOL DISTRICTS REGULATION

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**Part 1
Establishment of Separate
School District**

**Division 1
Separate School Establishment Area**

Intention to establish

1 Where a process to establish a separate school district is initiated under section 100 of the Act, the notification required by section 100(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 must organize a meeting under section 101 of the Act for the purpose of determining the separate school establishment area.

(2) The initiating separate school electors must 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 must 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 must 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 102(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 104 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 must publish notice of the meeting in a prominent manner on their websites,

- (b) the petitioners must 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 records and minutes

5(1) The chair of a community information meeting must 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 must identify that the person is attending in that capacity and must be recorded as such on the attendance record prepared by the secretary.

(3) The chair must 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 must read the petition that was prepared and provided to the Minister in accordance with section 102(3) of the Act.

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

- (a) the petitioners, a representative of the operating separate school board and a representative of 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 referred to in clause (a) to respond to the questions referred to in clause (b).
- (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 104 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) must appoint one or more deputy returning officers,
- (b) must establish one or more voting stations as the returning officer considers necessary,

- (c) subject to subsection (3), must 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 must 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 must, 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 must, 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 before 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 must publish notice of the vote in a prominent manner on their websites,
 - (b) the petitioners must 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 must sign in the presence of the returning officer or a deputy returning officer a declaration in the form prescribed 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 a secret ballot.

(4) The returning officer or deputy returning officer must 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 must cause the printed instructions for the electors to be posted within each voting compartment and at a conspicuous location within the voting station and must 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 prescribed by the Minister.

Voting hours

14(1) Every voting station must 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 must 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 must be permitted to do so, but no other person may be allowed to enter the voting station for that purpose.

Wording of question

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

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 must 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 106 of the Act, the returning officer must 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 must provide notice of the results

(a) by email 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 must 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 must become effective

- (a) on September 1 of the year in which the vote was taken, if the vote was taken on or before April 30, or
- (b) on September 1 of the year immediately following the year in which the vote was taken, if the vote was taken after April 30.

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 110(1)(b) of the Act;
- (c) “plebiscite” means a plebiscite under section 110 of the Act;
- (d) “returning officer” means the returning officer appointed under section 22(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 district electors of the separate school district are entitled to vote in the plebiscite.

Costs of plebiscite

21 A board that conducts a plebiscite under section 110 of the Act is responsible for all costs associated with the vote.

Conduct of plebiscite

22(1) A board must 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, as modified by applying the definitions in section 19, in respect of every deputy returning officer designated under this section.

(4) The operating separate school board must, 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) Sections 11(1), 12 to 14 and 16 apply, as modified by applying the definitions in section 19, in respect of a vote.

(6) Despite subsection (5), for the purposes of this section, notice respecting the vote does not need to be served on the public school board, but 10 days' notice must be provided to the public school board.

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

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

Petition

23(1) A petition referred to in section 110(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 establishment district, and

(b) be in the form prescribed by the Minister.

(2) The petitioners must 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

24 The wording of the question on the ballot for the plebiscite must be as follows:

Do you favour the disestablishment of The _____
Separate School District?

Minimum requirements for binding disestablishment vote

25(1) In order for the vote on the disestablishment of a separate school district to be binding, a minimum of 25% of the separate school electors eligible to vote must cast a ballot on the question.

(2) The vote on the disestablishment of a separate school district must be decided by a majority of the ballots validly cast, and, in the case of an equality of votes, the question is deemed to be decided in the negative.

Notice of results

26(1) The returning officer must, 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 22(4);
- (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 11(1), as modified by section 22(5);
- (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 requirements for a binding vote as set out in section 25 were met.
- (2) As soon as practicable after the results of the vote are known, the returning officer must provide notice of the results of the vote
- (a) by email 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 must inform the returning officer of the petitioners' representative for the purposes of this section.

Part 3 General

Repeal

27 The *Establishment of Separate School Districts Regulation* (AR 164/2018) is repealed.

Expiry

28 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on August 31, 2024.

Coming into force

29 This Regulation comes into force on September 1, 2019.