

# School Act – BC Laws

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## Division 2 — Trustee Qualifications

### Who may hold office

**32** (1) Except as provided in this Division, a person is qualified to be nominated for office and to be elected or appointed to and hold office as a trustee if, at the relevant time, the person meets all the following requirements:

(a) the person must be an individual who is, or who will be on general voting day for the election or the effective date of the appointment, as applicable, age 18 or older;

(b) the person must be a Canadian citizen;

(c) the person must have been a resident of British Columbia, as determined in accordance with section 42, for at least 6 months immediately before the relevant time;

(d) the person must not be disqualified under this Act or any other enactment from being nominated for, being elected to or holding office as a trustee, or be otherwise disqualified by law.

(2) A person whose term of office as trustee has expired or is about to expire is eligible for re-election if the person is otherwise qualified to be a trustee.

(3) At any one time, a person is not eligible to be nominated for or elected as trustee for more than one trustee electoral area for any one school district.

### Disqualifications

**33** Without limiting section 32 (1) (d), the following persons are disqualified from being nominated for, being elected to or holding office as a trustee:

(a) a person who is disqualified under section 34 as an employee of a board, except as authorized under that section;

(b) a person who is disqualified under

(i) section 52 (1) [*failure to make oath or affirmation of office*], or

(ii) section 52 (2) [*unexcused absence from board meetings*];

(b.1) a person who is disqualified under the [Local Elections Campaign Financing Act](#) from holding office on a local authority;

(c) a person who is disqualified from holding office under

(i) Division 18 [*Election Offences*] of Part 3 of the [Local Government Act](#) as it applies under this Act, that Act or any other Act, or

(ii) Division (17) of Part I of the [Vancouver Charter](#), as it applies under this Act, that Act or any other Act;

(d) a person who holds office as a regional trustee of a francophone education authority under Part 8.1.

## **Disqualification of board employees**

**34** (1) For the purposes of this section, "employee" means

- (a) an employee or salaried officer of a board, or
- (b) a person who is within a class of persons deemed by regulation to be employees of a specified board,

but does not include a person who is within a class of persons excepted by regulation.

(2) Unless the requirements of this section are met, an employee of a board is disqualified from being nominated for, being elected to or holding office as a trustee on the same board.

(3) Before being nominated for office as trustee, the employee must give notice in writing to his or her employer of the employee's intention to consent to the nomination.

(4) Once notice is given under subsection (3), the employee is entitled to and must take a leave of absence from the employee's position with the employer for a period that, at a minimum,

(a) begins on the first day of the nomination period or the date on which the notice is given, whichever is later, and

(b) ends, as applicable,

(i) if the person is not nominated before the end of the nomination period, on the day after the end of that period,

(ii) if the person withdraws as a candidate in the election, on the day after the withdrawal,

(iii) if the person is declared elected, on the day the person resigns in accordance with subsection (7) or on the last day for taking office before the person is disqualified under section 52,

(iv) if the person is not declared elected and no application for judicial recount is made, on the last day on which an application for a judicial recount may be made, or

(v) if the person is not declared elected and an application for judicial recount is made, on the date when the results of the election are determined by or following the judicial recount.

(5) If agreed by the employer, as a matter of employment contract or otherwise, the leave of absence under this section may be for a period longer than the minimum required by subsection (4).

(6) Sections 54 and 56 of the [Employment Standards Act](#) apply to a leave of absence under this section.

(7) Before making the oath of office under section 50, an employee on a leave of absence under this section who has been elected must resign from the person's position with the employer.

(8) At the option of the employee, a resignation under subsection (7) may be conditional on the person's election not being declared invalid on an application under section 153 of the [Local Government Act](#) or section 115 of the [Vancouver Charter](#), as those sections apply to trustee elections.

## Division 4 — Electors

### Who may vote at an election

**39** (1) In order to vote in a trustee election, a person

(a) must meet the qualifications under section 40 (1) (a) to (e) as a resident elector or section 41 (1) (a) to (f) as a non-resident property elector,

(b) must not be disqualified by this Act or any other enactment from voting in the election or be otherwise disqualified by law, and

(c) must be registered as or deemed to be registered as an elector of the trustee electoral area for which the election is being held.

(2) The following persons are disqualified from voting at a trustee election:

(a) a person who has not completed the sentence for an indictable offence, unless the person is released on probation or parole and is not in custody;

(b) a person who is involuntarily confined to a psychiatric or other institution as a result of being acquitted of or found not criminally responsible for an offence under the [Criminal Code](#) on account of mental disorder;

(c) [Repealed 2014-19-99.]

(d) a person who has contravened section 161 (3) of the [Local Government Act](#) or section 123 (3) of the [Vancouver Charter](#), as those sections apply to trustee elections, in relation to the election.

(2.1) In addition to the persons referred to in subsection (2), a person who has filed a declaration under section 166.14 (5) is disqualified from voting at a trustee election to which the declaration applies.

(3) For clarification, no corporation is entitled to be registered as an elector or have a representative registered as an elector and no corporation is entitled to vote.

(4) A person must not vote more than once in a trustee election for any one school district.

(5) A person must not vote at a trustee election unless entitled to do so.

### Resident electors

**40** (1) In order to vote as a resident elector of a trustee electoral area, a person must meet all the following requirements at the time of voting:

(a) the person must be an individual who is, or who will be on general voting day for the trustee election, 18 years of age or older;

(b) the person must be a Canadian citizen;

(c) the person must have been a resident of British Columbia, for at least 6 months immediately before that day;

(d) the person must have been a resident of the trustee electoral area for which the election is held for at least 30 days immediately before that day;

(e)the person must not be disqualified by this Act or any other enactment from voting in a trustee election or be otherwise disqualified by law.

(2)If the boundaries of a school district or a trustee electoral area are extended, a person is deemed to have satisfied the requirement of subsection (1) (d) if, for at least 30 days before the person applies for registration as an elector, the person has been a resident of the trustee electoral area in which the person resides.

### **Non-resident property electors**

**41** (1)In order to vote as a non-resident property elector for a trustee electoral area, a person must meet all the following requirements at the time of voting:

(a)the person must not be a resident elector of that or any other trustee electoral area of the school district;

(b)the person must be an individual who is, or who will be on general voting day for the trustee election, age 18 or older;

(c)the person must be a Canadian citizen;

(d)the person must have been a resident of British Columbia for at least 6 months immediately before that day;

(e)the person must have been the registered owner of real property in the trustee electoral area for at least 30 days immediately before that day;

(e.1)the only persons who are registered owners of the real property, either as joint tenants or tenants in common, are individuals who are not holding the property in trust for a corporation or another trust;

(f)the person must not be disqualified by this Act or any other enactment from voting in a trustee election or be otherwise disqualified by law.

(2)A person may only register as a non-resident property elector in relation to one parcel of real property in a school district.

(3)If the boundaries of a school district or trustee electoral area are extended, a person is deemed to have satisfied the requirement of subsection (1) (e) if, for at least 30 days before the person applies for registration as an elector, the person has been a registered owner of property within the trustee electoral area in which the property is located.

(4)For the purposes of this section, the registered owner of real property means whichever of the following is applicable:

(a)the owner of a registered estate in fee simple of the property, unless another person holds an interest in the property referred to in paragraphs (b) to (d);

(b)the holder of the last registered agreement for sale, unless another person holds an interest in the property referred to in paragraph (c) or (d);

(c)the tenant for life under a registered life interest in the property, unless another person holds an interest in the property referred to in paragraph (d);

(d)the holder of a registered lease of the property for a term of at least 99 years.

(5) If there is more than one individual who is the registered owner of real property, either as joint tenants or tenants in common, only one of those individuals may register as a non-resident property elector under this section in relation to the real property.

(6) If the land title registration of the real property in relation to which a person is registering under this section indicates that there is more than one individual who is the registered owner of the real property, the individual registering must do so with the written consent of the number of those individuals who, together with the individual registering, are a majority of those individuals.

(7) A registered owner who has consented to the registration of another registered owner of the property may withdraw the consent by delivering a written withdrawal to the secretary treasurer of the board.

(8) Once a withdrawal of consent has been delivered in accordance with subsection (7), the person registered as the non-resident property elector in relation to the property ceases to be entitled to be registered and vote as such if the number of individuals referred to in subsection (6) falls below a majority of the registered owners, with this effective

(a) for the next election, in the case of a withdrawal delivered at least 52 days before general voting day for the election, and

(b) following the next election, in the case of a withdrawal delivered less than 52 days before general voting day for the election.

### **Rules for determining residence**

**42** (1) The following rules apply to determine for the purposes of this Part the area in which a person is a resident:

(a) a person is a resident of the area where the person lives and to which, whenever absent, the person intends to return;

(b) a person may be the resident of only one area at a time for the purposes of this Part;

(c) a person does not change the area in which the person is a resident until the person has a new area in which the person is a resident;

(d) a person does not cease being a resident of an area by leaving the area for temporary purposes only.

(2) As an exception to subsection (1), if for the purposes of attending an educational institution a person establishes a new area in which the person is a resident away from the usual area in which the person is a resident, the person may choose for the purposes of this Part either the usual area or the new area as the area in which the person is a resident.

### **Registration as an elector**

**43** (1) In order to be registered as an elector of a trustee electoral area, a person must meet the requirements of section 39 (1) (a) and (b) on the date of registration.

(2) A person may be registered as an elector in only one trustee electoral area for any one school district.

(3) A person registers as an elector of a trustee electoral area by

(a) delivering an application form completed as required by the board to the election official responsible at the place where the person is voting or providing to that official the information required in the manner established by the chief election officer, and

(b) in the case of a person applying to register as a non-resident property elector, providing to the election official responsible at the place where the person is voting

(i) the address or legal description of the real property in relation to which the person is registering,

(ii) proof satisfactory to that official that the person is entitled to register in relation to that real property, and

(iii) if applicable, the written consent from the other registered owners of that real property required by section 41 (6).

(4) For the purposes of subsection (3), the requirements to be registered as an elector under this Act may be satisfied by meeting the requirements to register as an elector under the [Local Government Act](#) or the [Vancouver Charter](#) at the time of voting.

(5) A person is deemed to be registered as a resident elector of a trustee electoral area if both the following requirements are met:

(a) a list of registered electors is prepared for the municipality or regional district electoral area in which the person resides;

(b) the person is registered as a resident elector of the election area referred to in paragraph (a) before the date established for the close of advance registration as an elector of that election area.

(6) A person is deemed to be registered as a non-resident property elector of a trustee electoral area if all the following requirements are met:

(a) the person is not entitled to be registered as a resident elector of a trustee electoral area for the school district;

(b) a list of registered electors is prepared for the municipality or regional district electoral area in which the person owns the property;

(c) the person is registered as a non-resident property elector of the election area referred to in paragraph (b) in relation to that property before the date established for the close of advance registration as an elector of that election area.

(7) Subsection (2) does not apply in relation to deemed registration under subsection (6) but, for certainty, a person is not entitled to vote in a trustee election as an elector of more than one trustee electoral area or as both a resident elector and a non-resident property elector.

## **Election offences**

**48** (1) For certainty, Division 18 [*Election Offences*] of Part 3 of the [Local Government Act](#) and Division (17) [*Election Offences*] of Part I of the [Vancouver Charter](#) apply in relation to the application of those Parts to trustee elections.

(2) In addition to the offences applicable as referred to in subsection (1), a person who contravenes section 39 (5) or 166.14 (7) of this Act commits an offence and is liable to the penalties provided in section 166 (3) of the [Local Government Act](#).

(3) Sections 164 [*prosecution of organizations and their directors and agents*] and 165 [*time limit for starting prosecution*] of the [Local Government Act](#) apply in relation to offences under this section.