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Education Act

ONTARIO REGULATION 463/97 ELECTRONIC MEETINGS AND MEETING ATTENDANCE

Consolidation Period: From June 7, 2021 to the [e-Laws currency date](#).

Last amendment: 416/21.

Legislative History: 234/04, 268/06, 293/18, 42/20, 232/20, 632/20 (as am. by 416/21), 416/21.

This is the English version of a bilingual regulation.

1. Subject to any conditions or limitations provided for under the Act or under this Regulation, a member of a board who participates in a meeting through electronic means in accordance with this Regulation shall be deemed to be present at the meeting for the purposes of every Act. O. Reg. 463/97, s. 1; O. Reg. 234/04, s. 1.

2. (1) Every board shall develop and implement a policy providing for the use of electronic means for the holding of meetings of a board and meetings of a committee of a board, including a committee of the whole board. O. Reg. 463/97, s. 2 (1); O. Reg. 234/04, s. 2.

(2) The policy shall be in accordance with this Regulation and with any policies established and guidelines issued by the Minister under paragraph 3.6 of subsection 8 (1) of the Act. O. Reg. 463/97, s. 2 (2).

3. (1) The policy shall provide for the following:

1. At the request of any board member or student trustee, the board shall provide the member or student trustee with electronic means for participating in one or more meetings of the board or of a committee of the board, including a committee of the whole board.
2. The electronic means required by paragraph 1 shall permit the member or student trustee to hear and be heard by all other participants in the meeting.
3. The electronic means shall be provided in such a way that the rules governing conflict of interest of members are complied with. O. Reg. 463/97, s. 3 (1); O. Reg. 268/06, s. 1 (1, 2).

(2) The policy shall ensure that student trustees who are participating through electronic means do not participate in any proceedings that are closed to the public under clause 207 (2) (b) of the Act. O. Reg. 268/06, s. 1 (3).

(3) The policy shall ensure that appropriate processes are put in place to ensure the security and confidentiality of proceedings that are closed to the public in accordance with the Act. O. Reg. 293/18, s. 1.

4. (1) Subsection (2) applies in respect of meetings of the board or of a committee of the board, including a committee of the whole board, that are open to the public. O. Reg. 463/97, s. 4 (1).

(2) The policy shall provide for the following:

1. The board shall provide members of the public with electronic means for participating in meetings and shall provide for the extent and manner of electronic participation.
2. The electronic means required by paragraph 1 shall permit members of the public to hear and be heard by all other participants in the meeting.
3. The policy shall ensure that members of the public who are participating through electronic means do not participate in any proceedings that are closed to the public in accordance with the Act. O. Reg. 632/20, s. 1.

(3) REVOKED: O. Reg. 632/20, s. 1.

5. (1) The policy shall require that, at every meeting of the board or of a committee of the whole board, the following persons be physically present in the meeting room of the board:

1. The chair of the board or his or her designate, subject to subsection 5.1 (1).
2. At least one additional member of the board.
3. The director of education of the board or his or her designate. O. Reg. 463/97, s. 5 (1); O. Reg. 293/18, s. 2 (1).

(2) The policy shall require that, at every meeting of a committee of the board, except a committee of the whole board, the following persons be physically present in the meeting room of the committee:

1. The chair of the committee or his or her designate, subject to subsection 5.1 (1).

1.1 If the chair of the committee or his or her designate participates in a meeting by electronic means pursuant to subsection 5.1 (1), at least one additional member of the committee.

2. The director of education of the board or his or her designate. O. Reg. 463/97, s. 5 (2); O. Reg. 293/18, s. 2 (2).

(3) Despite paragraph 1 of subsection 3 (1), the policy shall include provisions permitting the board to refuse to provide a member with electronic means of participation in a meeting of the board, a meeting of a committee of the whole board or a meeting of any other committee of the board, where to do so is necessary to ensure compliance with this section. O. Reg. 463/97, s. 5 (3).

5.1 (1) The policy may provide that the chair of the board or of a committee of the board or his or her designate may participate in a meeting of the board or of a committee of the board by electronic means if,

(a) the distance from the chair's or designate's current residence to the meeting location is 200 kilometers or more;

(b) weather conditions do not allow the chair or designate to travel to the meeting location safely; or

(c) the chair or designate cannot be physically present at a meeting due to health-related issues. O. Reg. 293/18, s. 3 (1).

(2) If there is a policy described in subsection (1), it shall provide that the chair or designate must be physically present for at least half of the meetings of the board for any 12-month period beginning December 1, or for the period beginning December 1, 2021 and ending November 14, 2022 and may provide that the chair or designate must be physically present for a greater proportion of meetings. O. Reg. 293/18, s. 3 (1).

Note: On November 15, 2022, subsection 5.1 (2) is revoked and the following substituted: (See: O. Reg. 293/18, s. 3 (2))

(2) If there is a policy described in subsection (1), it shall provide that the chair or designate must be physically present for at least half of the meetings of the board for any 12 month period beginning November 15 and may provide that the chair or designate must be physically present for a greater proportion of meetings. O. Reg. 293/18, s. 3 (2).

5.2 For greater certainty, the failure to be physically present as required by a policy referred to in subsection 5 (1) or 5.1 (2) does not constitute a failure for the purposes of clause 228 (1) (e) of the Act. O. Reg. 232/20, s. 2.

6. (1) The meeting room of the board or of a committee of the board, as the case may be, shall be open to permit physical attendance by members of the public at every meeting of the board or of the committee of the board. O. Reg. 463/97, s. 6 (1).

(2) For the purposes of subsection (1), the meeting room of a committee of the whole board is the meeting room of the board. O. Reg. 463/97, s. 6 (2).

(3) Subsection (1) does not apply where a meeting is closed to the public in accordance with the Act. O. Reg. 463/97, s. 6 (3).

6.1 (1) Subject to subsection (3), a member of a board shall be physically present in the meeting room of the board for at least three regular meetings of the board during each 12-month period beginning November 15, 2022. O. Reg. 416/21, s. 1 (1).

(2) Subsection (1) does not apply for a period described in that subsection if all schools of the board are closed for a total of two or more months during that period pursuant to an order made by,

(a) the Minister under section 5 (1) of the Act;

(b) a medical officer of health or the Chief Medical Officer of Health under section 22 or 77.1 of the *Health Protection and Promotion Act*;

(c) the Lieutenant Governor in Council under paragraph 5 of subsection 7.0.2 (4) of the *Emergency Management and Civil Protection Act*; or

(d) the Lieutenant Governor in Council under clause 4 (1) (a) of the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*. O. Reg. 232/20, s. 3; O. Reg. 416/21, s. 1 (2).

(3) If a member of a board is elected or appointed to fill a vacancy on or after November 15, 2022, the member shall be physically present in the meeting room of the board for at least one regular meeting of the board for each period of four full calendar months that occurs during the period beginning on the day the member is elected or appointed and ending the following November 14. O. Reg. 632/20, s. 2 (2); O. Reg. 416/21, s. 1 (3).

(4) Subsection (3) does not apply for a period described in that subsection if, at any time during that period, all schools of the board are closed pursuant to an order referred to in subsection (2). O. Reg. 232/20, s. 3; O. Reg. 632/20, s. 2 (3).

(5) REVOKED: O. Reg. 632/20, s. 2 (4).

6.2 (1) Despite a policy of a board respecting electronic meetings, the requirements under section 5 for persons to be physically present at meetings, and the requirement under section 6, do not apply for the period beginning the day section 3 of Ontario Regulation 632/20 comes into force and ending November 14, 2022. O. Reg. 632/20, s. 3; O. Reg. 416/21, s. 2 (1).

(2) Despite a policy of a board respecting electronic meetings, the requirements under subsection 5.1 (2) for persons to be physically present at meetings do not apply for the period beginning December 1, 2020 and ending November 14, 2022. O. Reg. 632/20, s. 3; O. Reg. 416/21, s. 2 (1).

Note: On November 15, 2022, section 6.2 of the Regulation is revoked. (See: O. Reg. 416/21, s. 2 (2))

7. (1) On and after November 15, 2022, despite a policy of a board respecting electronic meetings, the requirements under section 5 for persons to be physically present at meetings, and the requirement under section 6, do not apply for the period described in subsection (2), if all schools of the board are closed pursuant to an order made by,

- (a) the Minister under section 5 (1) of the *Education Act*;
- (b) a medical officer of health or the Chief Medical Officer of Health under section 22 or 77.1 of the *Health Protection and Promotion Act*;
- (c) the Lieutenant Governor in Council under paragraph 5 of subsection 7.0.2 (4) of the *Emergency Management and Civil Protection Act*; or
- (d) the Lieutenant Governor in Council under clause 4 (1) (a) of the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*. O. Reg. 42/20, s. 1; O. Reg. 632/20, s. 4 (1); O. Reg. 416/21, s. 3 (1).

(2) The period referred to in subsection (1) is determined as follows:

- 1. If an order is made under subsection (1) before November 15, 2022 and continues to apply on that date, the period starts on November 15, 2022 and ends 60 days after the order ceases to apply.
- 2. If an order is made under subsection (1) on or after November 15, 2022, the period starts on the day the order is made and ends 60 days after the order ceases to apply. O. Reg. 416/21, s. 3 (2).

(3) On and after November 15, 2022, despite a policy of a board respecting electronic meetings, the requirements under subsection 5.1 (2) for persons to be physically present at meetings do not apply for a period described in that subsection if all schools of the board are closed for a total of two or more months during that period pursuant to an order made by,

- (a) the Minister under section 5 (1) of the Act;
- (b) a medical officer of health or the Chief Medical Officer of Health under section 22 or 77.1 of the *Health Protection and Promotion Act*;
- (c) the Lieutenant Governor in Council under paragraph 5 of subsection 7.0.2 (4) of the *Emergency Management and Civil Protection Act*; or
- (d) the Lieutenant Governor in Council under clause 4 (1) (a) of the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*. O. Reg. 632/20, s. 4 (3); O. Reg. 416/21, s. 3 (3).

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