

**CITATION:** Simcoe County District School Board v. Wilson, 2025 ONSC 6621  
**COURT FILE NO.:** CV-25-00000594  
**DATE:** 20251126

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**BETWEEN:** )  
 )  
 Simcoe County District School Board )  
 ) Lesley A. Campbell, for the Applicant  
 Applicant )  
 )  
 – and – )  
 )  
 Lisa-Marie Wilson ) Jeff Beleskey, for the Respondent  
 )  
 Respondent )  
 )  
 )  
 )  
 ) **HEARD:** July 17, 2025

2025 ONSC 6621 (CanLII)

**REASONS FOR DECISION**

**J. DI LUCA J.**

**Overview**

- [1] The applicant, Simcoe County District School Board (the “Board”), is a school board incorporated under the provisions of the *Education Act*. The Board is responsible for administering and maintaining 88 elementary schools and 16 secondary schools.
- [2] The respondent, Lisa-Marie Wilson, is a duly elected trustee of the Board.
- [3] In this application, the Board asks the court to interpret provisions of the *Education Act* as they relate to the respondent’s continuing ability to perform her role as a trustee.
- [4] In particular, the applicant raises the following issues for the court’s determination:
  - (a) Whether the respondent vacated her seat on the board pursuant to ss. 219(11) and 228(1)(c) of the *Education Act* by failing to remain a resident in the area of the

Board's jurisdiction within the meaning of s. 219(1) of the *Act* between June 2, 2024 and May 1, 2025 when she was at a work secondment in Nova Scotia.

- (b) Whether the respondent vacated her seat on the Board within the meaning of s. 228(b) and/or (e) of the *Education Act* as a consequence of:
  - (i) Absenting herself, without being authorized by resolution entered in Board minutes from three consecutive regular meetings of the Board;
  - (ii) Failing to be physically present at Board meetings as required by *Ontario Regulation 463/97 Electronic Meetings and Meeting Attendance*; and,
  - (iii) Failing to attend at least one meeting in person between November 15, 2024 and March 15, 2025 as required by s. 7(9) of O. Reg. 463/97.

[5] The Board submits that if the court is satisfied that Ms. Wilson has vacated her seat, the court should make an order removing her from office and declaring the seat vacant.

[6] Ms. Wilson's position is that she has always resided in the jurisdiction of the Board. While she acknowledges that she moved to Nova Scotia for an 11-month period while on a work secondment, she submits that her stay in Nova Scotia was never intended to be permanent. Her intention was always to return to her residence within the jurisdiction of the Board once her secondment was completed. In terms of her attendance for Board meetings, Ms. Wilson maintains that she was open and candid about her reasons for not attending in person and was never advised that she needed to attend in person. She also argues that she acted in accordance with the practices of the Board at the time, and her virtual attendances at various meetings were always approved.

[7] Ms. Wilson submits that the singular focus on her, as opposed to other Board members, appears to be political in nature as no other trustee has been taken to task over their respective attendance records. In short, she argues that she has been singled out and treated unfairly.

### **Background and Summary of Relevant Evidence**

[8] The Board is comprised of 12 trustees, 11 of whom are elected to hold four-year terms.<sup>1</sup> The trustees earn an honorarium of approximately \$13,500 per year in recognition of their service.

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<sup>1</sup> The twelfth trustee is appointed to represent Indigenous communities.

- [9] The Board Chair between December 2018 and November 2024 was Jodi Lloyd. On November 18, 2024, she was succeeded by Dana Powell, who remains the current Chair.
- [10] Ms. Wilson was initially elected as a trustee in 2018. She was re-elected as a trustee on November 16, 2022. She represents Wards 7, 8, 9, and 10 in Barrie, Ontario. She has served on various committees that report to the Board. There have been no apparent issues regarding the performance of her duties as a trustee.
- [11] At the time of her election, Ms. Wilson was a resident of Barrie. She is now a resident of Thornton, Ontario. Both locations are within the jurisdiction of the Board.
- [12] Apart from her work on the Board, Ms. Wilson is employed full-time by the Ministry of the Solicitor General as a Probation and Parole Officer. She has held this position since 2013.
- [13] Through this employment, Ms. Wilson was offered a professional development secondment in Halifax, Nova Scotia. The anticipated duration was from June 2024 to June 2025. Ms. Wilson obtained approval from her employer to attend the secondment.
- [14] It does not appear that Ms. Wilson sought clearance or guidance from the Board on attending the secondment. That said, it appears that in May 2024, she advised a Board member, Trustee Rafeek, that she was planning on taking the secondment. On August 6, 2024, Ms. Wilson advised then Chair, Ms. Lloyd, that she had taken a one-year secondment and was currently living in Halifax, Nova Scotia.
- [15] Upon learning of the secondment from Ms. Wilson, Ms. Lloyd contacted the then Director of Education, John Dance, to seek guidance. Mr. Dance indicated that he would confirm the exact requirements of the *Municipal Act* and the *Education Act*. Ms. Lloyd agreed to make further inquiries of Ms. Wilson to determine her residential status. In August 2024, Director Dance indicated that he would follow up with Ms. Wilson to address concerns regarding her residency and virtual attendance at Board meetings.
- [16] The issue was raised at a Board meeting on October 23, 2024, though the comments of Board members in attendance suggest a lack of clarity on the scope of the residence requirements.
- [17] During the secondment, Ms. Wilson maintained her status as an Ontario resident and returned to Ontario for medical and family visits. Ms. Wilson is a cancer survivor who sees a doctor in Barrie for regular monitoring of her cancer treatments. Her children and grandchildren also live in Ontario.
- [18] Ms. Wilson maintained her Ontario driver's licence and health card. She also maintained her bank account in Ontario, though she also opened another bank account in Nova Scotia and directed the Board to send her honorarium to that account.

- [19] While in Nova Scotia, Ms. Wilson resided at two different residences where she paid rent. During this time, she maintained her residence in Barrie, though she was not paying rent on it.
- [20] Ms. Wilson has a sister in Nova Scotia for whom she was providing emotional support during this time. Apart from the secondment, Ms. Wilson took on a second job at an Atlantic Superstore in order to make ends meet.
- [21] It was always Ms. Wilson's intention to return to Barrie once her secondment was finished.
- [22] In terms of her attendance at the specific board meetings at issue, the following facts are noteworthy:
- (a) Ms. Wilson attended regular Board meetings virtually on August 28, 2024, September 25, 2024 and October 23, 2024. For each of these meetings, Ms. Wilson advised the Executive Assistant to the Board that she would be attending virtually, though she did not provide a reason for doing so. This form of virtual attendance was in accordance with the Board's practices at the time. No issues were ever raised about her attendance in this fashion.
  - (b) On November 22, 2024, Ms. Wilson wrote to the Board Chair seeking permission to attend Board meetings virtually going forward "until further notice." In her correspondence, Ms. Wilson confirmed that she was on a "short term" secondment in Nova Scotia and also indicated that she was assisting her sister who was undergoing some personal issues. She indicated "I will be here for the foreseeable future until she [Ms. Wilson's sister] is in a position which she no longer requires my support."
  - (c) The November 22, 2024 request was approved by the Chair on November 26, 2024, despite the requirements of O. Reg. 463/97.
  - (d) On December 17, 2024, the Chair again approved Ms. Wilson's request to attend a Board meeting virtually. In this request, Ms. Wilson stated "Due to my ongoing situation that you are aware of I am requesting to participate electronically..."
  - (e) Ms. Wilson attended various committee meetings electronically, including meetings on January 8, 2025, February 5, 2025 and March 4, 2025. Her requests in this regard were also approved by the Board chair. In several of these requests, Ms. Wilson states that her reason for not attending in person is because of her sister's ongoing health issues that have her "temporarily out of the province."
  - (f) On April 23, 2025, Ms. Wilson wrote to the Board Chair and asked to participate virtually in the Board meeting scheduled for that same evening. She advised that her secondment was completed and that she would be back to her regular

employment and residence on a full-time basis, though she was in transit from Halifax to Barrie and would not be back in time to attend the meeting in person.

- (g) The April 23, 2025 request was also approved by the Chair, again despite the requirements of O. Reg. 463/97.
- (h) As of July 29, 2024, the date on which the version of O. Reg. 463/972 at issue took effect, Ms. Wilson attended the following six regular Board meetings virtually: August 28, 2024, September 25, 2024, October 23, 2024, November 27, 2024, December 18, 2024 and April 23, 2025. Ms. Wilson attended in person on March 26, 2025 and May 28, 2025. She did not attend regular Board meetings on January 29, 2025 and February 26, 2025.
- (i) Prior to November 29, 2024, requests by trustees to participate in meetings electronically were granted automatically. Board chair Dana Powell acknowledged that this practice was not in compliance with O. Reg. 463/97.
- (j) On November 29, 2024, an email communication was sent to trustees setting out the process for obtaining permission to attend meetings electronically and it included reference to the provisions of O. Reg. 463/97. This type of communication was provided to trustees until January 3, 2025 at which time a revised communication was sent out. This revised communication makes no reference to the process established in the regulations. A further revised process, directing trustees to follow Policy 2140 – Electronic Meetings, was communicated to trustees on January 24, 2025. This appears to have been occasioned by an update to the Board’s policy which was approved in December 2024.
- (k) Various other trustees sought approval to attend Board and committee meetings electronically. Some of the requests provide reasons that would appear to address the criteria set out in the regulations. Some do not, including requests relating to traffic conditions, unspecified “familial care”, “familial needs”, and a request indicating that the trustee was “still a little laid up.”

[23] Attendance at Board meetings is governed in part by O. Reg. 463/97, the relevant portions of which are set out below. This regulation was initially passed in the 1990s. It has been the subject of several revisions over the years, including most recently on September 1,

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<sup>2</sup> O. Reg. 463/97 was amended on September 1, 2025. The current provisions do not apply to events addressed in this application.

2025. The Board also has its own by-laws and policies, including Policy 2140, which relates to electronic meetings.

- [24] On July 29, 2024, amendments to O. Reg. 463/97, which require in-person attendance at meetings took effect. At the time of the events relevant to this application, the Board had not updated either its by-laws or its policy to reflect the July 2024 amendments to the regulation.

## ANALYSIS OF THE ISSUES

### Issue #1 – The Residence Requirement

#### (i) Relevant Statutory Provisions

##### a. *Education Act*

- [25] The qualifications to be elected as a Board trustee are set out in s. 219(1) of the *Education Act*, which provides:

#### Qualifications of members

219 (1) A person is qualified to be elected as a member of a district school board or school authority if the person is qualified to vote for members of that district school board or that school authority and is resident in its area of jurisdiction.

- [26] Section 219(9) of the *Act* provides that a person is not qualified to act as a trustee if the person ceases to hold the qualifications to be elected as a trustee.
- [27] Section 219(11) of the *Act* provides that the seat of a trustee who is not qualified or entitled to act as a member of the Board is vacated.
- [28] Sections 1(8)-1(11) of the *Education Act* contains the following residency provisions with respect to voting entitlement:

#### Entitlement to vote based on residence

(8) Despite any provision of this Act, except subsection (9), or of any other Act, including [clause 17 \(2\) \(a\)](#) of the *Municipal Elections Act, 1996*, for the purposes of regular elections and by-elections, a person is not qualified to vote for a member of a board for an area unless the person resides in the area on voting day.

#### Exception

(9) Subsection (8) does not apply to a person who is an owner or tenant of residential property in the area referred to in subsection (8), or who is a spouse of that person. .

### **Entitlement to vote in the area of jurisdiction of a board**

(10) For the purposes of [sections 50.1, 54, 58.8 and 58.9](#), a person is entitled to vote in the area of jurisdiction of a board if, on voting day, he or she,

- (a) resides in the area or is a person to whom subsection (9) applies;
- (b) is a Canadian citizen;
- (c) is at least 18 years of age; and
- (d) is not a person referred to in [clause 17 \(2\) \(d\)](#) of the *Municipal Elections Act, 1996*. [2002, c. 17](#), Sched. D, s. 36 (2).

### **Interpretation**

(11) For the purposes of subsections (8) and (10), “resides” has the same meaning as in [section 17](#) of the *Municipal Elections Act, 1996*. [2002, c. 17](#), Sched. D, s. 36 (3).

[29] Section 228(1) of the *Education Act* prescribes circumstances in which a seat on the Board is vacated. It provides as follows:

228 (1) A member of a board vacates his or her seat if he or she,

- (a) is convicted of an indictable offence;
- (b) absents himself or herself without being authorized by resolution entered in the minutes, from three consecutive regular meetings of the board;
- (c) ceases to hold the qualifications required to act as a member of the board;
- (d) becomes disqualified under subsection 219 (4); or
- (e) fails to be physically present as required by the regulations made under clause 208.1 (1)(b).

### **b. *Municipal Elections Act, 1996***

[30] Section 17 of the *Municipal Elections Act*, 1996, provides as follows:

**Qualifications of electors**

17 (1) Repealed: 2002, c. 17, Sched. D, s. 5 (1).

**Qualifications**

(2) A person is entitled to be an elector at an election held in a local municipality if, on voting day, he or she,

- (a) resides in the local municipality or is the owner or tenant of land there, or the spouse of such owner or tenant;
- (b) is a Canadian citizen;
- (c) is at least 18 years old; and
- (d) is not prohibited from voting under subsection (3) or otherwise by law.

**Persons prohibited from voting**

(3) The following are prohibited from voting:

- 1. A person who is serving a sentence of imprisonment in a penal or correctional institution.
- 2. A corporation.
- 3. A person acting as executor or trustee or in any other representative capacity, except as a voting proxy in accordance with [section 44](#).
- 4. A person who was convicted of the corrupt practice described in [subsection 90 \(3\)](#), if voting day in the current election is less than five years after voting day in the election in respect of which he or she was convicted.

**Status as tenant**

(4) Despite the definitions of “owner or tenant” and “tenant” in [subsection 1 \(1\)](#), a regulation may specify circumstances in which a person is, and is not, considered to be a tenant for the purposes of clause (2) (a).

[31] Section 2 of the *Municipal Elections Act*, 1996, contains the following provisions in relation to the meaning of “residence”:

**Residence**

2 (1) For the purposes of this Act, a person's residence is the permanent lodging place to which, whenever absent, he or she intends to return.

### **Rules**

(2) The following rules apply in determining a person's residence:

1. A person may only have one residence at a time.
2. The place where a person's family resides is also his or her residence, unless he or she moves elsewhere with the intention of changing his or her permanent lodging place.
3. If a person has no other permanent lodging place, the place where he or she occupies a room or part of a room as a regular lodger or to which he or she habitually returns is his or her residence.

### **Exception, students**

(2.1) Despite paragraph 1 of subsection (2), a person may have residences in two local municipalities at the same time if,

- (a) the person lives in one of the local municipalities in order to attend an educational institution, but not with the intention of changing his or her permanent lodging place; and
- (b) the person's permanent lodging place is in the other local municipality.

### **Rules if no permanent lodging place**

(3) If a person has no permanent lodging place as described in subsections (1) and (2), the following rules apply in determining his or her residence:

1. The place to which the person most frequently returned to sleep or eat during the five weeks preceding the determination is his or her residence.
2. If the person returns with equal frequency to one place to sleep and to another to eat, the place to which he or she returns to sleep is his or her residence.

3. Multiple returns to the same place during a single day, whether to eat or to sleep, shall be considered one return.
4. A person's declaration regarding the places to which he or she returned to eat or sleep during a given time period is conclusive, in the absence of evidence to the contrary.

**(ii) The Principles of Statutory Interpretation**

[32] The applicable principles of statutory interpretation are clearly summarized in *Canada (Minster of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, where the Supreme Court offered the following guidance at paragraphs 117 and 118:

[117] A court interpreting a statutory provision does so by applying the “modern principle” of statutory interpretation, that is, that the words of a statute must be read “in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament”: *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998 CanLII 837 \(SCC\)](#), [1998] 1 S.C.R. 27, at para. 21, and *Bell ExpressVu Limited Partnership v. Rex*, [2002 SCC 42](#), [2002] 2 S.C.R. 559, at para. 26, both quoting E. Driedger, *Construction of Statutes* (2nd ed. 1983), at p. 87. Parliament and the provincial legislatures have also provided guidance by way of statutory rules that explicitly govern the interpretation of statutes and regulations: see, e.g., [Interpretation Act](#), R.S.C. 1985, c. I-21.

[118] This Court has adopted the “modern principle” as the proper approach to statutory interpretation, because legislative intent can be understood only by reading the language chosen by the legislature in light of the purpose of the provision and the entire relevant context: Sullivan, at pp. 7-8. Those who draft and enact statutes expect that questions about their meaning will be resolved by an analysis that has regard to the text, context and purpose, regardless of whether the entity tasked with interpreting the law is a court or an administrative decision maker. An approach to reasonableness review that respects legislative intent must therefore assume that those who interpret the law — whether courts or administrative decision makers — will do so in a manner consistent with this principle of interpretation.

[33] As well, in accordance with s. 64(1) of the *Legislation Act*, SO 2006, c.21 Sch. F, legislation is to be interpreted as remedial and shall be given such fair, large and liberal interpretation as best ensures the attainment of its objects.

**(iii) The Meaning of “is resident” in Section 219(1) of the *Education Act***

- [34] Section 219(1) of the *Act* establishes that in order to be qualified to be elected as a Board member, a person must be (i) qualified to vote and (ii) a resident in the area of the Board's jurisdiction.
- [35] Given the structure of this section, there exists a dual residency requirement for Board members. First, there is a general residence requirement in relation to the qualification to act as a Board member. However, there also exists a second residence requirement as a component of the qualification to vote.
- [36] The residency requirement for the qualification to vote is specifically restricted to the day of the election. Section 1(8) of the *Act* provides that a person is qualified to vote if on the day of the election, they reside in the jurisdiction of the Board. However, s. 1(9) creates an exception to s. 1(8) and stipulates that s. 1(8) does not apply to a person who is an owner or tenant of residential property in the area or who is a spouse of that person. The combined effect of ss. 1(8) and 1(9) is that in certain circumstances, a person may be eligible to vote in an area despite not being a resident.
- [37] The meaning of the residency requirement for voting qualification can be discerned through a combined reading of the *Education Act* and the *Municipal Elections Act, 1996*. Section 1(11) of the *Education Act* stipulates that for the purpose of s. 1(8), "resides" has the same meaning as in s. 17 of the *Municipal Elections Act, 1996*.
- [38] Section 17 of the *Municipal Elections Act, 1996*, sets qualifications for a person to be an elector in a municipal election. Section 17(1) of the *Act* has been repealed and even in prior form was not relevant. Section 17(2)(a) of the *Act* requires, inter alia, that an elector reside in the local municipality.
- [39] Section 17 does not itself define "reside." However, the meaning of the term "reside" in s. 17 can be determined by reference to s. 2 of the *Municipal Elections Act, 1996*, which contains provisions and rules for determining a person's residence for the purposes of the *Act*.
- [40] Section 2(1) of the *Municipal Elections Act, 1996*, provides that a person's residence is the permanent lodging place to which, whenever absent, he or she intends to return. Section 2(2) sets out rules for determining a person's residence and it stipulates, inter alia, that a person may have only one residence at a time.
- [41] The second residency requirement found in s. 219 of the *Education Act* is a general residence requirement. The inclusion of this general residency requirement likely relates to the fact that a person might be qualified to vote on election day even though they are not resident in the area, see s. 1(9) of the *Act*. By including a general residency requirement, the legislature appears to have signalled a clear intention to have Board members reside in the area where they are elected to serve.

- [42] Section 219(9) of the *Act* provides that a person is not qualified to act as a Board member if the person ceases to hold the qualifications required to be elected. In short, if a Board member ceases to be qualified to vote or is no longer resident in the jurisdiction of the Board, they are no longer qualified to act as Board members.
- [43] The seat of any such member is vacated pursuant to s. 219(11) and s. 228(1)(c) of the *Act*.
- [44] The question raised in this application revolves around the correct interpretation to be given to the term “is resident” as it appears in s.219(1) of the *Education Act*.
- [45] The *Education Act* does not contain any express definition of what it means to “reside” nor does it directly adopt ss. 2(1) and 2(2) of the *Municipal Elections Act*, 1996. As well, to the extent that the term “resides” in s. 1(8) of the *Education Act* is deemed to have the same meaning as in s. 17(2) of the *Municipal Elections Act*, 1996, it is important to note that s. 1(8) of the *Education Act* relates only to the qualification to vote. It does not appear to specifically apply to the general qualifying requirement found in s. 219(1) of the *Act*, namely that a person must reside in the jurisdiction of the Board.
- [46] This raises a question as to whether “is resident” for the purposes of s. 219(1) of the *Education Act* means the same thing as “resides” for the purposes of s. 1(8) of the *Act*.
- [47] In my view, it does. In accordance with the modern principles of statutory interpretation, I am required to read the words of an Act in their entire context and in their grammatical and ordinary sense harmoniously with the scheme and object of the act and the intention of the legislature, see *Bell ExpressVu Limited Partnership v. Rex*, 2002 SCC 42 at para. 26.
- [48] In terms of the object of the act and the intention of the legislature, I note that the duties of Board members are set out in s. 218.1 of the *Education Act* as follows:

**Duties of Board members**

218.1 A member of a board shall,

- (a) carry out his or her responsibilities in a manner that assists the board in fulfilling its duties under this Act, the regulations and the guidelines issued under this Act, including but not limited to the board’s duties under section 169.1;
- (b) attend and participate in meetings of the board, including meetings of board committees of which he or she is a member;
- (c) consult with parents, students and supporters of the board on the board’s multi-year plan under clause 169.1 (1) (f);

- (d) bring concerns of parents, students and supporters of the board to the attention of the board;
- (e) uphold the implementation of any board resolution after it is passed by the board;
- (f) entrust the day to day management of the board to its staff through the board's director of education;
- (g) maintain focus on student achievement and well-being; and
- (h) comply with the board's code of conduct.

[49] Board members are also required to conduct themselves in accordance with a code of conduct adopted by the Board, see s. 218.2 of the *Education Act*. As well, ss. 169.1 and 170 the *Education Act* also sets out the responsibilities of the Board more generally and these provisions give context to the duties of Board members.

[50] When these duties and responsibilities are viewed together and in context, they assist in determining the nature, purpose and intent of the residency requirements. In this regard, I adopt the comments of Smart J. in *Board of Education of School District No. 42 v. Joostema*, 2008 BCSC 203, wherein he examined the provisions of British Columbia's Schools Act, R.S.B.C. 1976, c. 412 and Elections Act R.S.B.C. 1996, c. 108, in addressing a similar issue to that presented in this case. While Smart J.'s analysis was framed in terms of the provisions of those acts and the evidence placed before him, his findings apply here as well.

[51] At paragraph 22, he explained:

The purpose of the residency requirements to vote at the election of trustees under the *Act* is obvious: it is those persons who reside in a particular electoral district and who may have children attending schools in that district, who may be paying school taxes on property located in that district, and who will have a real connection and direct interest in the advancement of education and the benefits that schools can provide for that district, who should be entitled to vote at the election of the school trustees for that district.

[52] And further on at paragraph 27, he explained:

I am satisfied that the requirements of residency for school trustees do not end upon their election. Rather, they continue throughout their term of office. To interpret the residency requirements otherwise would be

inconsistent with the wording of the relevant sections and inconsistent with the purpose of the residency requirements. *The Act* requires trustees who have a physical connection with the schools and the district they serve in order to fulfil the responsibilities that Ms. Ashlie has outlined in her affidavit. Being a resident for the purpose of being a school trustee is different from a consideration of residency for the purpose of paying income tax.

[53] As such, I find that the provisions in this case reveal a clear legislative intent to require a Board member to continue to reside in the area throughout their elected term, in order to foster the Board member's ability to fulfill the duties of an elected representative acting in keeping with the overall responsibilities of the Board established under the *Education Act*.

[54] In short, the residency requirement is aimed at, in a colloquial sense, making sure Board members have "skin in the game." Requiring a Board member to reside in the area of the Board's jurisdiction is a mechanism for ensuring that the elected members are locally connected with their constituents and the schools they are elected to serve.

[55] With the legislative purpose and intent in mind, I turn to examining the available caselaw for guidance. I begin by noting that the term "resides" appears in many statutes and provisions in the municipal election context. There is also a body of caselaw that has interpreted various residence requirements, though I approach the caselaw with caution as there are no cases dealing with the specific legislative provisions that are at issue in this case.

[56] In *Sifton v. Sifton*, 1938 CanLII 110 (UK JCPC), [1938] 3 D.L.R. 577, Lord Romer stated the following:

The word "residence" is an elastic word; it takes colour from the context in which it is used. Here it means an actual permanent residence, a home. It will not cease to be a residence by reason of mere temporary absence.

[57] A similar pronouncement was made by Rand J. in *Thomson v. Canada (Minister of National Revenue)*, 1946 CanLII 1 (SCC), [1946] S.C.R. 209, at QL p. 12:

The gradation of degrees of time, object, intention, continuity and other relevant circumstances, shows, I think, that in common parlance "residing" is not a term of invariable elements, all of which must be satisfied in each instance. It is quite impossible to give it a precise and inclusive definition. It is highly flexible, and its many shades of meaning vary not only in the contexts of different matters, but also in different aspects of the same matter. In one case it is satisfied by certain elements, in another by others, some common, some new.

- [58] In *Board of Education of School District No. 42 v. Joostema, supra*, the Board member had sold her home in British Columbia and had purchased a home in Nova Scotia. The Board member made public comments indicating that she was moving to Nova Scotia, though she planned to “keep a room” in the jurisdiction and travel back and forth. In this factual context, Smart J. found that the Board member no longer resided in the area of the Board.
- [59] I also consider *Anawak v. Nunavut (Chief Electoral Officer)*, 2008 NUCJ 24, where the Court held that a person who had taken an ambassadorial position in Ottawa for a period of four years, which included moving to a home with his wife in Ottawa, did not comply with the relevant residency provisions despite having an intention to return to Nunavut.
- [60] Conversely, in *Laboucan v. Whitehead*, 2018 ABQB 678, the Court addressed a residency requirement in the context of a person who maintained a residence in the appropriate jurisdiction, but was absent during the work week as would travel to her place of employment and stay through the week, returning home on weekends. The court held that her stays away from home for work purposes were temporary and did not result in a finding that she was no longer resident within the meaning of the *Local Authorities Election Act*, RSA 2000, c L-21.
- [61] I have also considered *Yanchuk v. Krochak*, 1999 CanLII 12713 (SK KB), *Fells v. Spence*, 1984 CanLII 5096 (NWT SC), *Tenold v. Chapman*, 1981 CanLII 3031 (SK KB), *Re an Election in St. John’s South, Newfoundland* (1959), 1959 CanLII 349 (NL CA), 22 DLR (2d) 288 (NLSC), *Foothills (Mun. Dist. No. 31) v. Jones* (1990), 1990 CanLII 5527 (AB KB), 74 Alta L.R. (2d) 126 at 137, and *Blackfalds (Town of) v. Stryker*, 2000 ABQB 193, *R. v. Inhabitants of North Curry* (1825) 4 B. & C. 953 at 959, 107 E.R. 1313; *Re North Renfrew; Wright v. Dunlop* (1904) 7 O.L.R. 204 at 206, affirmed 8 O.L.R. 359 (C.A.), *Re Irwin and Hammond* [1948] 2 W.W.R. 98 (Alta. Dist. Ct.), *Saint John County Hospital v. Peck*, 51 N.B.R. 324, [1924] 2 D.L.R. 163, *Verbeke et al. v. Zimmerman*, 1990 CanLII 7602 (SK KB) and, *Morgan v. Mierzewski*, 1969 CarswellAlta 75, 71 W.W.R. 52.
- [62] Acknowledging that this body of caselaw deals with many different legislative provisions, these cases nonetheless demonstrate the inherently factual determination that must be undertaken in addressing the various forms of residency requirements. In short, there are no comprehensive definitions, and, in most cases, residency is determined by reference to the specific legislative provisions at issue and a consideration of the specific facts of the case.
- [63] With that caution in mind, the caselaw is nonetheless useful in providing a list of indicia of residency that can be applied to assess the facts of a specific case. The indicia include the following:
- (a) the degree to which a person organizes their life in the place in question;
  - (b) tie or connection to the area;

- (c) where one sleeps or eats or works;
- (d) where one files their income tax;
- (e) where the driver's licence was issued;
- (f) the jurisdiction issuing health care cards;
- (g) the location of bank accounts;
- (h) the reason for a person's absence from an area; and,
- (i) the person's intentions relating to returning to the area.

- [64] Against this backdrop, I turn to examining the specific words of s. 219(1) of the *Education Act*. In my view, it would be incongruous if the definition of “resides” for the purpose of voting eligibility under s. 1(8) were to be different than the definition of “is resident” as found in s. 219(1). They should mean the same thing. Residency in relation to voting eligibility is fixed at a point in time, namely the day of the election. Read consistently and logically and keeping in mind the purpose of the *Act*, ss. 219(1), (9) and (11) simply extend the requirement of residency to the duration of the electoral term of a Board member.
- [65] Assuming this analysis is correct, the definition of “is resident” in s. 219(1) of the *Education Act* can be determined through ss. (1) – (3) of the *Municipal Elections Act*, 1996 which assist in defining the terms “resides” as found in s. 17(2) of the *Municipal Elections Act*.
- [66] Section 2(1) of the *Municipal Elections Act*, 1996, directs that a person's residence is the “permanent lodging place to which, whenever absent, he or she intends to return.” Section 2(3) also establishes rules for addressing scenarios where a person does not have a permanent lodging.
- [67] These provisions do not require a person to reside in a location each and every night. Indeed, such an interpretation would be absurd. People take vacations. Some may stay at a secondary residence. At times, work commitments may require a person to be away from home for periods of time. Lastly, people may also stay elsewhere for education purposes, which is specifically provided for in s. 2(2.1) of the *Municipal Elections Act*, 1996.
- [68] Conversely, the provision should also not be read to permit a person to absent themselves from the area of the Board for a significant period of time, even if their intention is ultimately to return. Determining whether a person “is resident” must be undertaken in a manner consistent with the overall structure and purpose of the *Act*, including the purpose of the residency provisions. Board members are elected for four-year terms. Clearly, it would not be permissible to take a four-year secondment, as that would result in the Board member being absent for the entire duration of their term. By contrast, there would be

absolutely no issue with a person taking a month-long vacation. Ultimately, the assessment of where to draw the line is necessarily fact and context specific.

**(iv) Did Ms. Wilson Cease to Reside Within the Area of the Board?**

- [69] Turning to the facts of this case, I note that there is no suggestion that Ms. Wilson was not qualified to vote and therefore not qualified to be on the Board. On the day of the election, she was a resident living within the jurisdiction of the Board.
- [70] The real issue is whether she remained a resident within the area of the Board's jurisdiction. On this issue, I note that Ms. Wilson accepted a 12-month secondment with the express approval of her employer, the Ministry of Correctional Services. She did not quit her full-time job in order to take this secondment. She clearly intended to complete the secondment and return to her full-time employment.
- [71] While Ms. Wilson did stay in Nova Scotia for a period of approximately 10-months, her intention was always to return to Ontario and more particularly, return to Barrie. She did not relinquish her apartment in Barrie but instead made arrangements with a friend who stayed there. She did not change the address on her driver's licence or health card. She maintained a schedule of medical visits in Ontario. Her children and grandchildren live in the area. She returned to Barrie on four occasions over the course of her stay in Nova Scotia. Lastly, while she opened a bank account in Nova Scotia, her explanation for doing so makes sense and does not suggest any degree of permanence to her move. Moreover, she also maintained her original bank account in Ontario.
- [72] It also appears that she continued to fulfill her obligations as a Board member. While the issues relating to her virtual attendance will be addressed later in these reasons, there is no suggestion in the evidence that Ms. Wilson's stay in Nova Scotia resulted in her absconding from performing her duties, albeit virtually, as a Board member.<sup>3</sup>
- [73] Taken all together, I am satisfied that Ms. Wilson was resident in Barrie despite the fact that she accepted a secondment in Nova Scotia. There was nothing permanent about the stay in Nova Scotia. Her intention was always to return to her residence in Barrie, which

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<sup>3</sup> There is an implicit suggestion that Ms. Wilson was not candid when she advised the Board at the last minute that she could not attend a school graduation ceremony on June 27, 2024 due to illness. The communication data reveals that Ms. Wilson's email was sent from a location in Halifax, Nova Scotia which suggests that the real reason why Ms. Wilson could not attend in person was not illness but rather her location. In her evidence, Ms. Wilson explained that had she not been sick, she planned to book a last minute flight to attend the meeting. While the explanation provided stretches credulity, the applicant did not press this issue at the hearing of the application.

was her permanent lodging. The evidence about her intention in this regard is corroborated by the circumstantial evidence presented.

## Issue #2 - Attendance at Board Meetings

### (i) Overview

[74] I turn next to addressing the issues raised by the applicant in relation to Ms. Wilson's attendance at Board meetings. On this issue, the applicant argues that Ms. Wilson vacated her seat by operation of ss. 228(1)(b) and 228(1)(e) of the *Education Act*, which provide as follows:

#### **Seat vacated by conviction, absence etc.**

228 (1) A member of a board vacates his or her seat if he or she,

...

(b) absents himself or herself without being authorized by resolution entered in the minutes, from three consecutive regular meetings of the board;

...

(e) fails to be physically present as required by the regulations made under clause 208.1 (1) (b).<sup>4</sup>

[75] As set out earlier, the applicant raises the following arguments in support of this submission:

- (i) Ms. Wilson absented herself without being authorized by resolution entered in Board minutes from three consecutive regular meetings of the Board, contrary to s. 7(3) and 7(5) of O. Reg. 463/97;
- (ii) Ms. Wilson failed to be physically present at Board meetings as required by O. Reg. 463/97; and

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<sup>4</sup> O. Reg. 463/97 is a regulation made under s. 208.1(1)(b) of the *Education Act*.

- (iii) Ms. Wilson failed to attend at least one meeting in person between November 15, 2024 and March 15, 2025 as required by s. 7(9) of O. Reg. 463/97.

(ii) **Ontario Regulation 463/97 – Electronic Meetings**

[76] Between July 29, 2024 and August 31, 2025, O. Reg. 463/97 contained the following provisions:

**Deemed present**

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 is deemed to be present at the meeting for the purposes of every Act.

**Policy re meeting by electronic means**

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.

(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](#).

**Provision of electronic means**

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 all persons participating in the meeting to communicate with each other simultaneously and instantaneously.

3. The electronic means shall be provided in such a way that the rules governing conflict of interest of members are complied with.

(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](#).

(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.

(4) Despite paragraph 1 of subsection (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, unless the member has approval under [subsection 7 \(5\)](#) or where to do so is necessary to ensure compliance with [section 6](#) or [subsection 7 \(8\)](#).

...

#### **Board meetings, member attendance**

**7.** (1) The policy shall require that all members of the board be physically present in the meeting room of the board at every regular meeting of the board and every regular meeting of a committee of the whole board.

(2) Despite subsection (1), the policy may provide that a member of the board may participate in a meeting described in that subsection by electronic means instead of being physically present if the member receives written approval under subsection (5) before the meeting begins.

(3) If a member of the board proposes to participate in a meeting described in subsection (1) by electronic means, the member shall submit a request in writing and the reasons for the request to the chair of the board before the meeting begins.

...

(5) The chair, vice-chair or other member, as applicable, may approve a request if they are satisfied that one or more of the following circumstances exist:

1. The member's primary place of residence within the area of jurisdiction of the board is located 125 kilometres or more from the meeting location.

2. Weather conditions do not allow the member to travel to the meeting location safely.
3. The member cannot be physically present at a meeting due to health-related issues.
4. The member has a disability that makes it challenging to be physically present at a meeting.
5. The member cannot be physically present due to family responsibilities in respect of,
  - i. the member's spouse,
  - ii. a parent, step-parent or foster parent of the member or the member's spouse,
  - iii. a child, step-child, foster child, or child who is under legal guardianship of the member or the member's spouse,
  - iv. a relative of the member who is dependent on the member for care or assistance, or
  - v. a person who is dependent on the member for care or assistance and who considers the member to be like a family member.

(6) The chair shall not approve a request under subsection (5) if approving the request would result in fewer than one member of the board, in addition to the chair of the board or their delegate, being physically present in the meeting room.

(7) The vice-chair or other member of the board shall not approve a request under subsection (5) unless the chair's designate will be physically present in the meeting room.

(8) If there is a policy described in subsection (2), it shall provide that,

- (a) the chair or designate shall be physically present in the meeting room of the board for at least half of the meetings of the board during each 12-month period beginning November 15, 2022; and

(b) subject to subsection (9), 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.

(9) 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.

...

**No failure to be physically present, s. 228 of the Act**

9. For greater certainty, the failure to be physically present as required by a policy referred to in [subsection 7 \(8\)](#) does not constitute a failure for the purposes of [clause 228 \(1\)](#) (e) of the [Act](#).

- [77] In accordance with s. 1 of this regulation, a Board member who participates in a meeting electronically in accordance with the regulation is deemed to be present at the meeting.
- [78] In accordance with ss. 2 and 3 of this regulation a Board is required to pass and implement a policy in relation to electronic participation at meetings. As set out in s. 7(2) and (5), a policy *may* permit a Board member to participate electronically so long as the Board member receives written approval under s. 7(5) in advance of the meeting.
- [79] Sections 7(3) and 7(5) do not specifically refer to a Board policy. Section 7(3) directs that if a member of the board proposes to participate in a meeting electronically, the member shall submit a request in writing and the reasons for the request to the chair of the board before the meeting begins. Section 7(5) directs that the chair of the board may approve of such a request and further directs the circumstances under which such requests may be granted.
- [80] I note that O. Reg. 463/97 was significantly revised as of September 1, 2025. The revised regulations place a clear emphasis on personal attendance at all Board and related committee meetings. Importantly, the revisions have repealed s. 9 of the regulation, which provided that a failure to physically attend in accordance with a policy referred to in s. 7(8) of the regulations would not constitute a failure for the purposes of clause 228 (1)(e) of the *Act*.

**(iii) The Arguments Presented**

**a. Section 7(3) and 7(5) of O. reg. 463/97**

- [81] In this section I will jointly address the first two issues raised: whether Ms. Wilson absented herself from three consecutive meetings without being authorized by resolution entered in the Board minutes, and/or whether Ms. Wilson failed to be physically present as required by O. Reg. 463/97, thereby vacating her seat pursuant to s. 228(1)(b) and/or s. 228(1)(e) of the *Education Act*.
- [82] At the outset, it is important to keep in mind that Ms. Wilson attended all the subject meetings, albeit electronically. Her electronic participation was either approved by the Board chair or permitted in accordance with Board practices. There is no issue as to whether she actually absented herself from these meetings. In my view, this is dispositive in relation to s. 228(1)(b) of the *Education Act*, despite any technical deficiency as will be discussed below. Ms. Wilson did not absent herself from three consecutive regular meetings.
- [83] Turning to s. 228(1)(e) of the *Act*, it is important to keep in mind that s. 9 of the regulations, at the time, directed that a failure to physically attend a meeting in accordance with a Board policy referred to in s. 7(8) of the regulations would not constitute a failure to attend for the purposes of s. 229(1)(e) of the *Education Act*, and by extension would not result in the Board member's seat being vacated.
- [84] In this case, the Board did not have a policy that was consistent with the version of O. Reg. 463/97 that was in force at the time. Also, to the extent that the Board had a policy, it did not follow it.
- [85] In its factum, the Board states the issue as follows at para. 36:
36. The Board submits that what is not clear, however, is: where there is no board policy per section 2(1) of O. Reg. 463/97, or if the policy does not conform to the requirements of O. Reg. 463/97, is a trustee's failure to adhere to the statutory process set out in sections 7(3) – 7(5) of O. Reg. 463/97 a failure to be physically present within the meaning of s. 228(1)(e) of the *Education Act*?
- [86] The Board's position is that the language used by the legislature in structuring ss. 7(3) – 7(5) makes clear that those provisions apply regardless of whether the Board has a policy. As such, the applicant argues that Ms. Wilson did not fail to comply with a Board policy resulting in her non-attendance at certain meetings. Rather, her non-attendance results from her failure to comply with ss. 7(3) and 7(5) of the regulations and as a result, the saving provision found in s. 9 of the O. Reg. 463/97 is of no assistance to her.

- [87] In my view, this is unfair. Had the Board enacted a policy as it was required to do, Ms. Wilson's allegedly non-compliant electronic participation in various meetings would not be a basis on which her seat could be vacated. The Board's failure to enact a policy should not be visited on Ms. Wilson.
- [88] In any event, even assuming the applicant is correct that in the absence of a policy, s. 9 of the regulations does not apply and further correct that ss. 7(3)–7(5) of the regulation apply, even in the absence of a policy, I am not satisfied that Ms. Wilson either absented herself from three consecutive meetings or failed to physically attend in accordance with the regulation.
- [89] The applicant alleges that Ms. Wilson failed to follow the proper process in relation to three meetings she attended electronically on August 28, 2024, September 25, 2024 and October 23, 2024 because she did not obtain approval to attend electronically for one of the reasons specified in s. 7(5) of the regulation.
- [90] For each of these meetings, Ms. Wilson notified the executive assistant to the Board that she would be participating electronically. While she did not provide a specific reason for the need to participate electronically, no issue was raised by the Executive Assistant or the Chair of the Board. Importantly, the Board already knew by this time that Ms. Wilson had accepted the secondment and was in Nova Scotia. It was not a hidden fact.
- [91] The applicant concedes that the process followed by Ms. Wilson in participating electronically in these meetings was in accordance with the Board's practices in effect at the time. In these circumstances, I find that it would be unfair and unwarranted to place the fault on Ms. Wilson for technical non-compliance. More particularly, it is unfair and unwarranted to visit the suggested consequence of a vacated position on Ms. Wilson.
- [92] This is an instance where the Board failed to have a policy reflective of the regulations and more importantly engaged in a practice that permitted electronic participation at meetings without adherence to the regulations or policy. If there is fault here, it lies with the Board and more particularly, the Board Chair. Indeed, I note that s. 218.4(b) of the *Education Act* stipulates that a Board chair has a duty to conduct the meetings in accordance with the board's procedures and practices for the conduct of board meetings.
- [93] The applicant also submits that Ms. Wilson failed to attend regular Board meetings in person on November 27, 2024, December 18, 2024 and April 23, 2025, because the explanations she gave in support of electronic participation did not comply with s. 7(5) of the regulations.
- [94] In relation to the November and December meeting, Ms. Wilson explained that she could not attend in person because she needed to provide support for her sister. In relation to the April meeting, Ms. Wilson explained that she could not attend the meeting because she was in transit from Halifax to Barrie.

[95] The Board Chair approved the requests for Ms. Wilson to appear electronically in relation to each of these meetings. While none of the explanations provided would meet the statutory criteria set out in s. 7(5) of the regulations, it is the Chair’s duty to consider requests to participate electronically in accordance with the criteria set out in s. 7(5) of the regulation. As such, it may well be that the Chair failed to adhere to regulations and improperly authorized Ms. Wilson’s electronic participation, but that failure should not be visited on Ms. Wilson.

**b. Section 7(9) of O. Reg. 463/97**

[96] In terms of the third issue, the applicant argues that since Ms. Wilson did not attend a board meeting in person between November 15, 2024 and March 15, 2025, she has failed to comply with s. 7(9) of the O. Reg. 463/97 and has therefore vacated her seat.

[97] The applicant’s submission on this issue involves a misreading of this provision. Section 7(9) of O. Reg. 463/97 provides as follows:

(9) 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.

[98] Section 7(9) of O. Reg. 463/97 relates to instances where a Board member is “elected or appointed to fill a vacancy on or after November 15, 2022.” I read this provision as applying to instances where a Board member is “elected to fill a vacancy” or “appointed to fill a vacancy under s. 221 of the *Education Act*, which provides as follows;

**Vacancies**

221 (1) Subject to section 224, if the office of a member of a board becomes vacant before the end of the member’s term,

(a) the remaining elected members shall appoint a qualified person to fill the vacancy within 90 days after the office becomes vacant, if a majority of the elected members remain in office; or

(b) a by-election shall be held to fill the vacancy, in the same manner as an election of the board, if a majority of the elected members do not remain in office.

[99] This section makes clear that a vacancy can be filled by either election *or* appointment.

[100] In this case, there is no suggestion that Ms. Wilson filled a vacancy either through election or appointment. She is a twice elected Board member. Section 7(9) has no application to her situation.

### **Conclusion**

[101] The application is dismissed.

[102] In closing, I wish to note some observations.

[103] Given the new regulations and the renewed commitment to requiring in person meetings reflected therein, the issues raised in this application are unlikely to repeat themselves.

[104] While I have determined that the work secondment in Halifax did not change Ms. Wilson's residency within the meaning of s. 219(1) of the *Education Act* in the circumstances of this case, the requirements for in-person participation at Board and other meetings, likely means that such a placement would, in the future, be incompatible with a Board member's duties.

[105] As well, the Board chair has a responsibility to ensure that meetings are run in accordance with policies and practices. Going forward, the regulations give clear guidance on what is required. The Board should have up-to-date policies and should engage in practices consistent with those policies.

[106] To the extent that issues regarding Board member participation at meetings need to be litigated, the Board should first consider its conduct so as to avoid a situation where a particular Board member is targeted unfairly.

[107] The parties are strongly urged to settle the issue of costs. If they are unable to do so, the respondent may serve and file costs submissions, within 14 days of the release of these reasons. The applicant shall file its costs submissions within 28 days. The costs submissions shall be no longer than three pages exclusive of appropriate appendices and can be sent to my judicial assistant at [mary.galluzzo@ontario.ca](mailto:mary.galluzzo@ontario.ca).

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J. Di Luca J.

**CITATION:** Simcoe County District School Board v. Wilson, 2025 ONSC 6621  
**BARRIE COURT FILE NO.:** CV-25-00000594-0000  
**DATE:** 20251126

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

SIMCOE COUNTY DISTRICT SCHOOL BOARD

Applicant

– and –

LISA-MARIE WILSON

Respondent

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**REASONS FOR DECISION**

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Justice J. Di Luca

**Released:** November 26, 2025