

# Scrutineers

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## General Information

### Definition

“Scrutineer” - means an individual, appointed in writing by a certified candidate, to represent him or her during the voting process.

## From MMAH’s 2014 Candidates’ Guide for Ontario Municipal and School Board Elections

### Who can stay in a voting place

As a candidate, you are allowed to stay in a voting place to observe, but you are not allowed to interfere with voters, attempt to influence how they vote, or ask a voter how they voted. Scrutineers may also stay in the voting place.

**Note:** If you have been acclaimed, you are not allowed to be in the voting place or to appoint scrutineers.

You and your scrutineers are entitled to be in the voting place 15 minutes before it opens and to inspect the ballot boxes, the ballots and any other papers or forms relating to the vote. However, you may not delay the opening of the voting place.

You and your scrutineers are entitled to place a seal on the ballot box so that ballots put in the box cannot be removed without breaking your seal.

### Scrutineers

You are allowed to appoint a scrutineer for each ballot box in a voting place. You do not have to appoint that many scrutineers or any scrutineers at all. If you have appointed one scrutineer for each ballot box, one scrutineer must leave while you are in the voting place.

Scrutineers may observe, but they are not allowed to interfere with voters, attempt to influence how they vote, or ask a voter how they voted.

There are no general restrictions on who you can appoint as a scrutineer. An acclaimed candidate is not allowed to be appointed as a scrutineer for another candidate.

You must provide each scrutineer with an appointment in writing. Scrutineers may be required to show their appointment document to election officials at the voting place.

Scrutineers may be required to take an oath of secrecy.

## Counting the votes

The vote count begins immediately after the close of voting at 8 p.m.

If the votes are counted manually, you and your scrutineers are entitled to view the ballots as they are counted, but are not allowed to touch the ballots. You and your scrutineers may object to a ballot or how it is counted (if it is unclear who the vote is for, or if the ballot has extra markings on it, for example). The deputy returning officer is responsible for deciding whether to accept the objection, and must keep a list of all the objections raised.

After the votes have been counted, the deputy returning officer will prepare a statement showing the results, and seal all the other election documents, including the ballots, inside the ballot box. You and your scrutineers are entitled to put their own seal on the ballot box at this time. You and your scrutineers are also entitled to sign the statement showing the results.

The sealed ballot box and the statement of the results will then be delivered to the clerk, who will compile the results and declare who has been elected.

**Please note:** depending on the number of polls used in the election, it may take the Clerk a day or two to make the official declaration.

## From the *Municipal Elections Act*

### Scrutineers

#### Scrutineers at election of candidate

**16.(1)** A candidate may appoint scrutineers to represent him or her during voting and at the counting of votes, including a recount. 1996, c. 32, Sched., s. 16 (1).

#### Scrutineers for applicant under s. 58

**(4)** An elector who applies for a recount under section 58 may appoint scrutineers to represent him or her at the recount. 1996, c. 32, Sched., s. 16 (4).

#### Manner of appointment

**(5)** The appointment of a scrutineer shall be in writing if made by a candidate or applicant or by the Minister, and by resolution if made by a municipality or local board. 1996, c. 32, Sched., s. 16 (5).

#### Proof of appointment

**(6)** A scrutineer shall, on request, show proof of his or her appointment to the election official in charge of a voting place or of a place where votes are being counted. 1996, c. 32, Sched., s. 16 (6).

## Who may remain in voting place

**47. (1)** No person shall remain in a voting place when the vote is being taken or the votes are being counted except,

- (a) the clerk and the deputy returning officer and any other election official appointed for the voting place;
- (b) a certified candidate, other than a candidate who has been declared to be elected by acclamation;
- (c) one scrutineer appointed by each person described in clause (b) for each ballot box in use at the voting place;

## Rights of candidates and scrutineers

**(5)** The persons described in clauses (1) (b), (c), (d) and (e) are each entitled,

- (a) to be present when materials and documents related to the election are delivered to the clerk under subclause 43 (5) (b) (ii) and clause 55 (1) (d);
- (b) to enter the voting place 15 minutes before it opens and to inspect the ballot boxes and the ballots and all other papers, forms and documents relating to the vote (but not so as to delay the timely opening of the voting place);
- (c) to place his or her own seal on the ballot box, immediately before the opening of the voting place, so that ballots can be deposited in the box and cannot be withdrawn without breaking the seal;
- (d) to place his or her own seal on the ballot box immediately after the close of voting on each day of an advance vote under section 43, so that ballots cannot be deposited or withdrawn without breaking the seal;
- (e) to examine each ballot as the votes are being counted by the deputy returning officer under section 54 (but not to touch the ballot);
- (f) to object to a ballot or to the counting of votes in a ballot under subsection 54 (3);
- (g) to sign the statement of the results of the election prepared by the deputy returning officer under clause 55 (1) (a); and
- (h) to place his or her own seal on the ballot box after the counting of the votes, when the deputy returning officer seals the box under clause 55 (1) (c), so that ballots cannot be deposited or withdrawn without breaking the seal. 1996, c. 32, Sched., s. 47 (5).

## Prohibition

**48. (1)** While an elector is in a voting place, no person shall attempt, directly or indirectly, to influence how the elector votes. 1996, c. 32, Sched., s. 48 (1).

## No election campaign material

**(2)** Without limiting the generality of subsection (1), no person shall display a candidate's election campaign material or literature in a voting place. 1996, c. 32, Sched., s. 48 (2).

## Interpretation

[\(3\)](#) For the purpose of this section,

“voting place” includes any place in the immediate vicinity of the voting place designated by the clerk. 2002, c. 17, Sched. D, s. 18.

## Secrecy

[49.\(1\)](#) Every person who is present in a voting place or at the counting of the votes shall help to maintain the secrecy of the voting. 1996, c. 32, Sched., s. 49 (1).

## Offences

[\(2\)](#) No person shall,

- (a) interfere or attempt to interfere with an elector who is marking the ballot;
- (b) obtain or attempt to obtain, at a voting place, information about how an elector intends to vote or has voted; or
- (c) communicate any information obtained at a voting place about how an elector intends to vote or has voted. 1996, c. 32, Sched., s. 49 (2).

## Same

[\(3\)](#) No elector shall show his or her marked ballot to any person so as to reveal how he or she has voted, except in connection with obtaining assistance in voting under paragraph 4 of subsection 52 (1). 1996, c. 32, Sched., s. 49 (3).

# Information from HCM’s Policies and Procedures for Elections

## SCRUTINEERS

### Oral Oath of Secrecy

Any candidate or scrutineer who intends to remain at the voting place will be required to complete an “Oral Oath of Secrecy” form EL12 (B). Further they will be provided with a copy of the “Statutory Provisions Regulating Voting Procedures” form EL34 which outlines what they may and may not do during an election.

As per the *Municipal Elections Act*, a candidate may appoint scrutineers to represent him or her during the voting and at the counting of the votes, including during a recount.

### Appointment of Scrutineers by Candidate Form

An “Appointment of Scrutineers by Candidate” form EL12 (A) including the “Conduct of Scrutineers” section must be filled out completely and acknowledgement signed by the scrutineer. This form lists the requirements and restrictions placed on a scrutineer and outlines what he may or may not do at the voting place.

An elector who applies for a recount may also appoint scrutineers.

### **Proof of Appointment of Scrutineer**

The appointment of a scrutineer shall be in writing if made by a candidate or applicant for a recount or by the Minister, and by resolution if made by a municipality or local Board.

- ◆ A scrutineer shall, on verbal request, show proof of his or her appointment to the election official in charge of a voting place or of a place where votes are being counted.
- ◆ Scrutineers may remain in a voting place when the vote is being taken or the votes are being counted. The scrutineers that may be present include:
  - one scrutineer appointed for each certified candidate for each ballot box in use at the voting place.
  - the number of scrutineers who may be present is reduced by one while the candidate who appointed them is present in the voting place.
  - the scrutineers appointed by the municipality in relation to a by-law or question.

### **Advanced Voting Day**

ADVANCE VOTING DAY PROCEDURES *MEA*, SEC. 43(4) (5) (6) (7)

Immediately following the close of the advance vote, the ballot box shall be sealed so that no additional ballots can be placed in the box without breaking the seal.

- ◆ The advance vote DROs must deliver to the Clerk a completed "List of Persons who Voted at an Advance Vote" form EL38, showing the number of the voting subdivision for each elector.
- ◆ The Clerk shall, if requested by any candidate or their scrutineer, provide a copy of this list to the candidate.
- ◆ The Clerk shall ensure Voting Day Lists are updated to reflect voting that took place at an Advance Vote.
- ◆ Ballots from the advance poll are counted by the DROs and other election officials after the close of the vote (8:00 p.m.) on Voting Day. Candidates or scrutineers, but not both, are entitled to be present for each ballot box.

### **Voting Day**

During the fifteen minutes prior to the opening of the voting place, scrutineers are entitled to inspect ballots and other papers, but must not impede opening of the voting place.

### **Maintaining Peace and Order**

Section 11(2) (c) of the *MEA*, provides that the Clerk is responsible for "maintaining peace and order...." This should not be interpreted as giving the Clerk police powers but merely making the Clerk responsible for determining the need for obtaining assistance of this nature and for making the necessary arrangements in this regard.

The Clerk may require the assistance of persons specially appointed to aid in maintaining peace and order. The Clerk may also empower DROs to similarly require the assistance of such persons. A DRO may remove any person from the voting place that is causing a disturbance. This applies to voter, scrutineer, candidate, media, etc.

### Objections

If the DRO, a scrutineer or a candidate objects to the person voting, the DRO shall note the objection and by whom it was made on the Voters' List next to the person's name.

### Challenging Eligibility

- ◆ If a candidate or scrutineer challenges the right of a person to vote, the DRO or Voting Clerk must write opposite that person's name on the voting list maintained by the Voting Clerk "objected to by (the name of the candidate)" or "objected to by (name of scrutineer) on behalf of (name of candidate)".
- ◆ The DRO may also challenge an individual on his or her own initiative if her or she has reason to believe the person is not entitled to vote in that voting place.
- ◆ In either case, the challenged individual must then take a prescribed oath, the "Oral Oath of Qualification" EL26. If he or she refuses, a ballot must be refused and that words "refused to affirm" or "refused to be sworn" must be entered opposite that person's name on the voting list maintained by the Voting Clerk.

### Objections

The DRO shall:

- ◆ decide all objections;
- ◆ prepare a list "List of Objections to Vote Count" form EL30 in which the objections are summarized and individually numbered and will include the name of the candidate or the candidate's scrutineer.
- ◆ write the number of each objection on the back of the relevant ballot and initial the number.
- ◆ count the ballots as required by legislation and make decisions related to the ballots as noted above.

### At the End of Voting Day

A scrutineer or a certified candidate is entitled to receive a copy of the statement of results from the Clerk, on request, **but not from the DRO.**

## Duties and Powers of Clerk

Item	Short Description	Enabling Legislation <i>(Municipal Elections Act)</i>
<b>Duties of Clerk</b>	The Clerk of a local municipality is responsible for conducting elections within that municipality.	Subsection 11(1)
<b>Powers of Clerk</b>	<p>A Clerk who is responsible for conducting an election may provide for any matter or procedure that:</p> <ul style="list-style-type: none"> <li>a. is not otherwise provided for in an Act or Regulation; and</li> <li>b. in the Clerk's opinion, is necessary or desirable for conducting the election.</li> </ul>	Subsection 12(1)
Forms Proof of identification, qualification	<p>Includes power to:</p> <ul style="list-style-type: none"> <li>a. establish forms, including oaths and statutory declarations; and</li> <li>b. require a person to furnish proof that is satisfactory to the election official of the person's identity or qualifications.</li> </ul>	Subsections 12(2)(3)