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CHIEF ELECTORAL OFFICER ORDER 2022/01

October 17, 2022

To: All School Board Returning Officers

Info: Hon. Jeanie McLean, Minister of Education
Richard Provan, Director Policy and Planning, Department of Education
Marc Champagne, Executive Director, Commission scolaire francophone du Yukon
Melissa Flynn, Interim Executive Director, First Nation School Board
Lori Choquette, School Council Liaison, Department of Education
Elaine Taylor, Executive Director, Association of Yukon School Councils, Boards and Committees

SUBJECT: ADAPTATION OF THE EDUCATION ACT PROVISION REGARDING MAIL-IN VOTING

Under the authority provided to the chief electoral officer in the *Education Act* section 84(2), this directive is to adapt section 99(1), entitled *Mail-In Voting*, for the school board and council election period beginning on Monday, October 17 and ending on Monday, November 7 at 8 PM, as follows:

Adaptation: Add: 99(1) "(g) any other reason."

Description: Effective immediately, and for the duration of this school elections, any eligible elector can apply for a mail-in ballot. No reason is required.

Purpose: This adaptation is to support elector access to the vote. Mail in ballots are the only statutory option to vote other than in-person voting (which is a single five-hour window on polling day).

Rationale: The current provision restricts who may apply for a mail-in ballot. The list of categories of electors who are able to vote by mail-in ballot is specific. There is no provision which would permit mail-in voting for those who for reason of travel distances or times, other obligations (employment conflicts would allow mail-in voting), convenience, individual preference, disability, or to avoid voting at a poll due to COVID-19 or any other concern. As such, unless one of the narrow categories for mail-in voting was applicable, the only option to vote would be by in-person voting.

The election is territory wide. There are estimated to be 9,000+ electors in communities all across the Yukon. In-person voting is only available for limited periods in a limited number of communities. As such, in-person voting is not practical or reasonable as an option to vote. Denial of access to the only alternate option to vote to those restricted categories

The only option to most electors would be in-person voting. It is not feasible or practical to have voting locations in all communities (there are up to 140 communities). Even with the 10 locations across the territory (which is of equal area to Spain) and the addition of an early vote period and polling day period, with no option other than in-person voting, participation would be affected.

Without the adaptation, an elector's right to vote and participate in the school elections could be unduly and unfairly compromised.

Authority: As allowed by section 84(2), this is in consideration of the unusual and unforeseen circumstances related to the expansion of the CSFY board and recent introduction of the FNSB; from a Whitehorse-centric

election to a truly territorial election in scope and scale. There are now 11 schools under board authority of which most are outside Whitehorse.



Max Harvey
Chief Electoral Officer

ADAPTED SCHOOL BOARD ELECTION REGULATION (1995/146)

8. Taking of the poll

(2) All persons qualified as electors in the education area may apply for a mail-in ballot.

ADAPTED EDUCATION ACT PROVISION

Mail in Voting

99(1) An elector who will be unable to vote on polling day because of

- (a) infirmity;
- (b) hospitalization;
- (c) absence from the education area;
- (d) confinement to a correctional centre;
- (e) hours of employment; (f) appointment as a deputy returning officer or poll clerk pursuant to section 95 or
- (g) any other reason.*

may apply before the close of the polls on polling day in writing in the prescribed form to the returning officer to vote by mail-in ballot.

EDUCATION ACT REFERENCE

Chief electoral officer

84(2) If, during the course of an election, it appears to the chief electoral officer that, because of any mistake, miscalculation, emergency, or unusual or unforeseen circumstances, any of the provisions of this Division do not accord with the exigencies of the situation, the chief electoral officer may, by particular or general instructions, adapt any of the provisions of this Division to the execution of its intent to any degree the chief electoral officer considers necessary to meet the exigencies of the situation.