

CHIEF ELECTORAL OFFICER ORDER 2022/02

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 BALLOTS

Under the authority provided to the chief electoral officer in the *Education Act* section 84(2), this directive is to adapt section 99 of the Act, *Mail-in Voting*, and to adapt regulation 1995/146 *School Board Elections* section 8, issued under section 98 of the Act, entitled *Taking of a Poll*, 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: Amend regulation section 8: The taking of the poll shall be by ballot paper or by alternate means as authorized by the chief electoral officer.

Amend Act section 99: Add 99(6): ballots paper includes ballot paper or by alternate means as authorized by the chief electoral officer

Description: Effective immediately, and for the duration of this school elections, an internet vote (ivote or electronic ballot) authorized as an alternate means for mail-in voting.

Purpose: This adaptation is to support elector access across the territory with an alternate means to vote by mail-in ballot processes using an internet vote.

Rationale: Over 90% of Yukon households have computers. Personal phones and devices increase this percentage. There are 140 communities in the Yukon all across the Yukon, acknowledging many are very small. There are estimated to be 9000 electors. There are two boards and a number of electors qualify to vote in both elections. Each are separate application processes, including for mail-in ballots.

Many of these electors are in locations where there is no in-person voting option; as such those electors may be disadvantaged if they could not readily access the vote whereas other locations have more easily accessible access. Mail-in ballots must meet strict timelines (the voting period is 10 days less than for territorial elections which also allow special ballot voting before close of nominations) and late ballot returns, which are not counted, are not uncommon. Internet voting becomes an option for all electors.

Even with an unprecedented expansion of locations, times, and opportunities to vote, access remains a major challenge. In the 2019 school board election for CSFY, there were 84 electors. This represents an estimated 4% of electors eligible for a school election vote.

With uncertain mail services and limited in-person voting opportunities), many electors may not be able to readily access their right to vote. For example, an elector in Mayo would have to go to Dawson or Ross River to vote in person for a school board election. An elector in Carcross or Teslin would need to go to Whitehorse to vote.

Internet voting does not replace any other voting option; it offers an alternative option to all electors. Internet voting is often a preferred option of electors who have disabilities or mobility issues, do not have transportation or child care, prefer to vote on own time, want confidentiality, or require time and location flexibility to vote.

As well, internet voting is the only practical option for electors who are out of the territory (for work, school, medical, or travel), in remote communities, in communities where there is no in-person voting, and for persons with disabilities, or where voting times and location of polls not practical due to transport, day care, or mobility. Others look for convenience.

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. The previous election in 2019 was for one board with two schools operated out of Whitehorse. There are now 11 schools under two board authorities of which most are in communities outside Whitehorse and electors in all areas of the Yukon.

Max Harvey
Chief Electoral Officer

ADAPTATION TO AMEND THE SCHOOL BOARD ELECTION REGULATION (1995/146)

8. Taking of the poll

(1) The taking of the poll shall be by ballot paper or by alternate means as authorized by the chief electoral officer.

(3) The chief electoral officer may establish procedures in respect of voting by mail-in ballot by electronic means.

ADAPTED EDUCATION ACT PROVISION

Section 99: ballot paper includes ballot paper or by alternate means as authorized by the chief electoral officer.

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.