

CHIEF ELECTORAL OFFICER ORDER 2022/04 (SB)

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: PROCESS REGARDING CHALLENGE TO ELECTOR QUALIFICATION

Under the authority provided to the chief electoral officer in the *Education Act* section 84(2), this directive is to adapt section 82 of the Act, entitled *Qualification of electors*, for the school board election period beginning on Monday, October 17 and ending on Monday, November 7 at 8 PM, as follows:

Adaptation: Amend Act section 82 to add para *(4) the chief electoral officer shall prescribe the procedures to be followed in a school board election when an elector's qualification is challenged.*

Description: Procedures on challenges to elector eligibility are omitted for the Act and regulations. Elector qualification may be challenged. A procedure is required.

Purpose: To provide direction to election officials on the procedures to be taken if an elector's eligibility to vote or be a candidate is challenged.

Rationale: School board elections have changed in scale, scope, and profile. There are thousands more electors eligible to vote. Eligibility is based on the standing requirements of age, residency period in Yukon, and citizenship.

For a board election, an elector must also have ancestral language or minority language rights or be a parent of a student attending a board school. There is no document to confirm an elector meets these requirements. Eligibility is based on an elector reviewing the requirements and making a signed declaration.

There is no appeal process in the Education Act for contested elections or elector eligibility. There is a process for a tie vote after a recount.

Process:

- Eligibility as elector or candidate for both boards is based on self-declarations on an Oath of Qualification.
- Signed declarations will be accepted without challenge by Elections Yukon officials. Electors will be issued a ballot or have their nomination paper approved based on their Oath.
- In the event of a challenge of elector eligibility by a candidate's agent, election officials would record the objection in their Polling Place Activity Log. This would include date and time, name of elector, name of challenger, and reason for objection. A ballot would be issued. The objection would be reviewed after the election as appropriate.

- For objections after the election, formal notification in writing to the CEO would be required. in writing. This would include date and time, name of elector, name of challenger, and reason for objection.
- Elections Yukon would conduct an investigation. The appropriate board officials, citizenship representatives, other agencies and the elector would be consulted on the elector's eligibility. The CEO would make a finding on eligibility and determination if a voting irregularity has occurred.
- As appropriate, the CEO would make a recommendation to the Minister regarding follow up or requirements for a by-election or other remedy as required.

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 EDUCATION ACT PROVISION

Section 82 to add para (4) the chief electoral officer shall prescribe the procedures to be followed in a school board election when an elector's qualification is challenged.

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.