

Information for District Education Council Election Candidates



M 04 311
(2022-08-30)

This information is a general guide to the election process for those interested in becoming candidates in District Education Council elections. If you have questions that are not answered here, contact either the Municipal Returning Officer for your area or the main office of Elections NB in Fredericton, at 1-888-858-8683 (VOTE), or the Elections New Brunswick website at <http://www.electionsnb.ca>.

For information on the role of district education councils, contact your local school district office, or the Department of Education and Early Childhood Development, at 506-453-3678, or their website at <http://www2.gnb.ca/content/gnb/en/departments/education.html>.

Who Can Be a Candidate?

General Requirements: To be a candidate in a District Education Council election, a person must be:

- 18 years of age on or before election day;
- a Canadian citizen; and
- a resident of the school district in New Brunswick for at least six months before election day; and
- a resident of the relevant school district *and* subdistrict or zone when nominated.

People Who Cannot Be Candidates: The following persons are not eligible to be a candidate for any District Education Council election:

- superintendents, directors of education and other administrative and supervisory personnel;
- school bus drivers;
- building maintenance personnel, including custodians;
- secretaries and clerks;
- teachers, meaning persons holding a teacher's certificate issued by the Minister and employed in the delivery of public education as a teacher, a principal, a vice-principal, a superintendent, a director of education or a district supervisor of instruction;
- persons other than teachers engaged to assist in the delivery of programs and services to pupils;
- other persons engaged in support areas such as social services, health services, psychology and guidance;
- employees of the Department of Education and Early Childhood Development;
- a judge,
- an election officer, or
- a person who has been disqualified from holding an elected office under federal, provincial, or municipal election laws.

People Who May Not Be Able To Be Candidates: Some public sector employees are restricted from engaging in political activity, even at a local level, or may need prior approval from their employer before filing nomination papers. If you work in the federal or provincial public service, check with your employer before filing nomination papers. It is the responsibility of a candidate

to obtain any approval required by his or her employer; the Municipal Returning Officer will not require or confirm such approval in processing nomination papers.

Nomination Papers

Nomination papers can be obtained from any Municipal Returning Office, or can be printed from the Elections NB website.

Nomination papers must be completed and returned to the office of the Municipal Returning Officer for the school subdistrict where the person will be a candidate (not the local municipal or school offices) on or before the day fixed for the close of nominations.

Nominations close at 2:00 p.m. on the Friday, the thirty-first day before polling day. If this day is on a holiday, nominations will close on the Thursday, the thirty-second day before polling day.

Do not leave filing to the last minute, in case corrections or additions are needed in your papers, as **no nomination papers can be accepted after the deadline under any circumstances**.

The Nomination Paper must be filled out completely, and must include:

- the name and civic address of the candidate;
- the school district and electoral zone or subdistrict for which the candidate is offering;
- the candidate's certification of his or her name, civic address and address for service as shown on the nomination paper is correct as stated;
- The candidate's certification that they:
 - are a Canadian citizen;
 - will be eighteen years of age or more as of the day of the election;
 - will have been ordinarily resident in the school district for at least six months immediately before the election; and
 - expect to be ordinarily resident in the Province and in the school district on election day,
 - are resident of the subdistrict or electoral zone when they are nominated;
 - are not an employee of the Department of Education and Early Childhood Development, or of any school or school district;
 - are willing to discharge the duties of the office of councillor in the official language on the basis of which the school district is organized, for which the candidate is offering;
- the consent of the candidate and the signature of the witness to the consent of the candidate;
- the signatures of at least ten (10) nominators who:
 - are qualified voters in the school district and electoral zone or subdistrict where the candidate is offering; and
 - are the parents of a pupil enrolled in a school in the school district (but not necessarily the subdistrict of the candidate) for which the candidate is offering. Parents of children who are being home schooled are not eligible to be a nominator; and
- a completed declaration of the witness who obtains the nominators' signatures.

Each signature must be witnessed and the witness cannot be a nominator unless another person witnesses them. The candidate may collect and witness nominator signatures, but may not nominate themselves. Each witness who collects signatures must complete a separate declaration. Relatives of a candidate may be nominators if they are qualified voters. The returning officer will check the list of nominators on the list of electors to determine if they are qualified to vote in your area. If a nominator has moved recently, ask them to call the returning office to update their information so that they are listed at their current address.

The name of a candidate will appear on the ballot as it is spelled on the Nomination Paper. No prefixes (e.g., Mr, Mrs, Dr) are used on the ballots. A nickname is permitted if it is in brackets and is printed on the Nomination Paper as the candidate wishes it to appear on the ballot.

The nomination of a candidate is completed when the Municipal Returning Officer indicates it has been accepted by dating and signing or initialling the papers.

After Nomination

Withdrawal of a Candidate: After nomination, a candidate who decides not to run may withdraw his or her nomination at any time not later than 5:00 p.m. on the third day after nominations close. A person withdraws by giving the Municipal Returning Officer a written statement that they are withdrawing as a candidate, signed by the candidate and two witnesses who are qualified voters in the relevant subdistrict. Any votes cast for a candidate who has so withdrawn are null and void.

Death of a Candidate: If a candidate dies after the close of nominations and before the closing of the polls on election day, the Municipal Electoral Officer for the Province will countermand the election for the affected subdistrict or electoral zone, and fix new dates for the nomination of candidates and a postponed election. The new election day will be not more than three months after the original election date. Candidates already nominated do not need to resubmit nomination papers, but additional candidates may be nominated.

Acclamations: If no more candidates than can be elected in a subdistrict or electoral zone are nominated, those candidates are elected by acclamation, and no polls are held for that office.

Contested Elections: If more candidates than can be elected to an office are nominated, polls will be held to elect candidates for that office thirty-one (31) days after the close of nominations.

Election Advertising and Campaigning

There are no restrictions on how much money candidates for District Education Council elections may spend on campaigning, and no requirements for filing any statements of donations received or money spent. However, there are some restrictions on campaign activity:

No Use of School Resources: No school or school system or Department of Education and Early Childhood Development resources may be used to support any individual candidate or group of candidates for a District Education Council election.

Restricted advertising period:

The *Municipal Elections Act* provides:

55(2) Any person who, on the ordinary polling day or on the day immediately preceding it,

- (a) broadcasts over any radio or television station,
 - (i) a speech,
 - (ii) any entertainment, or
 - (iii) any advertising program; or
 - (b) publishes or causes to be published in any newspaper, magazine or similar publication,
 - (i) a speech, or
 - (ii) any advertising; or
 - (c) transmits, conveys or causes to be transmitted or conveyed by any means to telephones, computers, telecopier machines or any other device capable of receiving unsolicited communications,
 - (i) a speech,
 - (ii) any entertainment, or
 - (iii) any advertising;
- in favour of or on behalf of any candidate commits an offence, but this subsection shall be deemed not to prohibit a bona fide news broadcast or news publication referring to or commenting upon a speech or containing any excerpts from a speech.*

Examples of unsolicited communications under paragraph (c) would include SPAM emails, Robocalls, mass faxes, etc.

Note that these provisions do not prevent a candidate's campaign from distributing printed materials in person or by Canada Post during the restricted advertising period, nor does it prevent additional signs from being placed in the electoral district.

Use of social media during the restricted advertising period:

In the case of a Twitter account held by a candidate, the candidate may post a "tweet" on their account. Persons "following" the candidate then receive an electronic "newsfeed" of the tweet for their information. Since the "followers" have already requested such notifications from the candidate, any such communication would be considered to be **solicited communications** and, therefore, not prohibited by subsection 55(2) of the *Municipal Elections Act*.

Similarly, in the case of a Facebook account held by a candidate, the candidate has "friends" who have agreed to send and receive messages with the candidate. As a result, any communication between the candidate and these "friends" are also deemed to be solicited communications. Accordingly, messages posted on the Facebook page would generally not be prohibited by the *Municipal Elections Act*.

Using social media is generally considered to be "solicited communication" and, thus, may occur during the restricted advertising period. On the other hand, paid advertising on social media is considered to be unsolicited communications and, thus, is prohibited during the restricted advertising period.

Election Day: On Election Day, no advertising or campaigning of any kind may be done on or from any moving motor vehicle. In addition, there may be no advertising or campaign material of any kind placed within thirty metres (100 feet) of any premises in which a polling station is located. "Polling station" means a building, or a portion of a building, secured by a municipal returning officer for the taking of the votes of electors on the ordinary polling day or an advance polling day. Candidates and one appointed scrutineer per polling station - but not their other agents, representatives or family members -- are allowed to be in any poll at any time on any polling day (ordinary or advance), as long as they do not engage in any kind of campaigning or interfere with voters or the polling process.

Advance Poll Days: There may be no advertising or campaign material within thirty metres (100 feet) of the premises in which an advance poll is being held. In addition, any advertising or campaigning using loudspeakers from a motor vehicle must not be able to be heard within thirty metres of the premises where an advance poll is being held.

Printed Advertising: All election signs, posters, handbills or other printed materials must include the name and address of the printer and publisher (if someone other than the candidate) on the face of the document. It is an offence to not include this information.

Placement of Election Signs: The Department of Transportation controls where or if signs may be placed on highway rights-of-way. Under the *Highway Advertisements Regulation-Highway Act*, election signs are not permitted on Level I and Level II access controlled highways (four-lane or two-lane). However, they are permitted within the highway right-of-way of other highways. In the interest of safety, any signs that are attached to a DOT sign, guard rail or bridge, installed within the median, or installed such that they reduce sight lines or visibility, will be removed immediately.

Municipalities may also have sign by-laws that control where or when election signs may be placed.

Both Aliant and NB Power ask candidates not to use utility poles to post campaign signs. While the practice may seem harmless, there are some potential safety concerns:

- The signs themselves present a safety hazard for employees who must climb poles to complete their work;
- The metal staples or clamps used to put up the signs often remain in the poles long after the election is over. These items could cause an employee to lose his or her footing while climbing and could also be a hazard for the general public who may happen to brush the pole while walking by.
- Staples or clamps will cause a pole to degrade faster than it should, therefore making them more susceptible to damage, requiring maintenance or possibly replacement.

No Media at the Polls: No media representatives are allowed in any polling stations in respect of District Education Council elections.

Lists of Electors

Using form M 04 101, *Application for a Copy of the List of Electors*, once a candidate's nomination papers have been accepted, a candidate may obtain a copy of the voters' lists for his or her subdistrict or electoral zone from the Municipal Returning Officer. Voters' lists are subject to the protection of privacy policies of the Province, and may be used only for election purposes. Any other use of a list, including any use of a list after the election is over, is an offence under the *Municipal Elections Act*.

Scrutineers

A District Education Council candidate may appoint one qualified voter in the school district to be a scrutineer at each polling station (including advance polls), to be present while the votes are cast and counted. Scrutineers are not paid by the Province, and there must not be more than one scrutineer for a candidate at a polling station at any time. A scrutineer must be appointed in writing, using the *Appointment of Scrutineer* form.

Reporting Results and Declarations of Election

Voting results determined and reported after the polls close on election day are “unofficial results”. On the second day following the election, the Returning Officer will determine the official number of votes for each candidate and any plebiscite question, and declare the official results of the elections by completing a *Declaration After the Poll Has Been Taken* for each election for which the returning officer is responsible. A copy of the *Declaration* will be given or mailed to each candidate and the original returned to Elections NB.

Tied Votes

If there is a tie in the number of votes for two or more candidates for the same office, the Municipal Returning Officer will recount the votes cast for such candidates in the presence of not less than two qualified voters (normally the affected candidates) and declare a winner.

If the vote remains tied after the recount, if the candidates agree, the Municipal Returning Officer will resolve the tie by putting the two names in a box and drawing one out, with the candidate whose name is drawn being declared elected. If the candidates do not agree on this method to resolve the tie, the Municipal Returning Officer will make a request to a judge for a recount.

Initial Recounts at the Municipal Returning Office

If there is a difference of not more than twenty-five votes between the votes for a candidate elected and a candidate not elected, the candidate who was not declared elected may apply to the Municipal Returning Officer for a recount of the votes. The application must be filed within ten days after the election. There is no charge for such a recount.

If this recount results in a tied vote, if the candidates agree, the Municipal Returning Officer will resolve the tie by putting the two names in a box and drawing one out, with the candidate whose name is drawn being declared elected. If the candidates do not agree on this method to resolve the tie, the Municipal Returning Officer will make a request to a judge for a recount.

If the returning office recount does not result in a tie, and the candidates agree on the results, the Municipal Returning officer shall either confirm the initial Declaration of Election, if the result (in terms of the candidate elected) has not changed, or issue a new Declaration of Election if the recount determines that a different candidate was elected.

If the returning office recount does not result in a tie, and the candidates *do not agree* on the results, the candidate not declared elected may apply for a judicial recount. The candidate may request a recount of all the ballots cast, or a recount only of ballots on which the candidates could not agree as to whether or how they should be counted.

Judicial Recounts

A candidate who has participated in a recount at the Municipal Returning Office but is not satisfied with the results, or a candidate who has lost an election by more than twenty-five votes but has

reasons to believe the results as reported may not be correct, may apply to a judge of The Court of Queen's Bench for a judicial recount. The application must be made within ten days of completion of the returning office recount or within ten days of the election, as applicable. The candidate may request a recount of all the ballots cast, or a recount only of ballots on which the candidates could not agree as to whether or how they should be counted.

If satisfied that there is reason to hold a recount, the judge will notify the affected candidates and election officials, and the recount will be conducted as soon as possible, normally within two weeks of the election. If the final result is a tie, it will be resolved by drawing one of the candidate's names out of a box.

Where the recount changes the election results so that a different candidate is declared elected than was originally declared elected, the costs of the recount are paid by Elections New Brunswick. If the recount does not change the candidate declared elected, the costs of the recount are paid by the candidate requesting the recount.

Information for Scrutineers

Role of Scrutineers: A scrutineer ensures for a candidate that voting at a given poll is properly carried out.

A scrutineer must be appointed in writing, using the M 04 201, *Appointment of Candidate's Representative* form. This form is provided to each candidate and is available on the Elections NB website at <http://www.electionsnb.ca>. Each scrutineer must bring their Appointment of Scrutineer form to the polling station, and give it to the Poll Supervisor in charge of that polling station, who will take their Oath of a Scrutineer. A Scrutineer may be present any time the poll is open or the votes are being counted, and if present at least fifteen minutes before the poll opens, may examine the ballot papers and any other materials or equipment relating to the poll. Each candidate may have only one scrutineer at each polling station in the subdistrict or electoral zone.

At the polling station, a scrutineer may object to a person's voting if they have reason to believe the person is not qualified to vote, is voting under someone else's name, or is otherwise not acting in accordance with the *Municipal Elections Act*. **The scrutineer must direct any concerns or questions to the election officer dealing with an elector.** If a scrutineer believes that a person is not entitled to vote, an objection should be made to the election officer *before* the person is given a ballot. The election officer will then require the person to take an oath as to their qualifications to vote. If the person refuses to take the oath they will not be allowed to vote, but if they take the oath they must be allowed to vote. The Voter List Officer or Poll Revision Officer will note any such objection in a Record of Objections, which remains with the Lists of Electors after the poll.

A scrutineer who has concerns about the conduct of activities in a polling station should make the Municipal Returning Officer aware of such concerns as soon as possible.

Scrutineer Behaviour: A scrutineer may not:

- wear or carry anything to indicate any affiliation with a particular candidate;
- use a cell phone or other telecommunication device in the polling station;
- talk to voters in the polling area, either before or after they have voted; nor
- do anything else that would impede the smooth flow of the election process.

A scrutineer not following these rules may be removed from the polling station by the Poll Supervisor at the polling station.