

# May 2021 Local Elections: Electoral Modifications and Post-Election Recommendations



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Contact information:  
102-551 King Street  
P.O. Box 6000  
Fredericton, NB  
Canada E3B 5H1

Toll Free: 1-800-308-2922  
Reception: (506) 453-2218  
Email: [info@electionsnb.ca](mailto:info@electionsnb.ca)  
[www.electionsnb.ca](http://www.electionsnb.ca)

August 23, 2021

Hon. William Oliver  
Speaker  
Legislative Assembly of  
New Brunswick  
P. O. Box 6000  
Fredericton, NB  
E3B 5H1

Mr. Shayne Davies  
Clerk  
Legislative Assembly of  
New Brunswick  
P. O. Box 6000  
Fredericton, NB  
E3B 5H1


Dear Mr. Speaker,

Pursuant to subsection 47.01(7) of the *Municipal Elections Act*, I respectfully submit to you and members of the Legislative Assembly a report with respect to the actions taken under subsection 47.01(1) of the Act in relation to the May 10, 2021 Municipal General Elections.

In addition, this report contains recommendations with respect to possible amendments to the *Municipal Elections Act*, based on the outcomes of these actions and other experiences during the administration of these elections.

I welcome the opportunity to appear before the Standing Committee on Procedure, Privileges, and Legislative Officers to answer questions members will no doubt have.

Sincerely,



Kimberly A. Poffenroth  
Chief Electoral Officer

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# Introduction

Conducting province-wide local elections are far more complex than conducting provincial general elections and come with their own unique set of challenges.

This is even more so the case when they are conducted during a pandemic that has impacted the day-to-day lives of every New Brunswicker for more than a year. It was through the herculean efforts of a small but dedicated team, working in concert with the thousands of New Brunswickers who worked as election officials, that we were able to deliver another safe, pandemic election in New Brunswick.

In October 2020, the Lieutenant-Governor in Council set May 10, 2021, as the new date elections would be held to elect municipal councils, regional health authority board members and district education council representatives. These local elections had been previously postponed from their original date of May 11, 2020, due to the global pandemic.

Just over two months later, on December 18, 2020, the Legislative Assembly of New Brunswick passed legislation amending the *Municipal Elections Act*, providing the Municipal Electoral Officer with greater flexibility in the event of an emergency impacting elections. These amendments included specific authority at section 47.01 of the *Municipal Elections Act* to modify electoral processes prescribed by the Act in the event of a declared state of emergency or a declared state of local emergency

On March 19, 2021, the Legislature was asked to enact additional legislation - *An Act Respecting Municipal General Elections in 2021* - that set out a clear process for the Municipal Electoral Officer to suspend and restart elections in the event a health region was ordered into lockdown by the Minister of Justice and Public Safety in the context of the ongoing COVID-19 pandemic.

As it turned out, the decision by elected officials to enact that legislation on March 26, 2021, was well timed. On April 11, 2021, with the local elections already under way, a portion of health zone 4 covering the Edmundston-Madawaska region experienced a spike in COVID-19 cases and was ordered into a lockdown. It would be 16 days before the lockdown was lifted and the Municipal Electoral Officer was able to set dates for restarting voting in the effected region.

Under subsection 47.01(7) of the *Municipal Elections Act*, the Municipal Electoral Officer must provide a report to the Legislative Assembly within four months following an election where she has acted under section 47.01 of the Act. This report details the modifications to electoral processes made under section 47.01 of the *Municipal Elections Act* during the course of the 2021 local elections, provides an explanation as to why the modifications were made, and offers insight into their impact on the elections.

This report also makes recommendations for amendments to the *Municipal Elections Act*. Some recommendations arise directly out of the modifications to electoral processes referred to above. Others are a restatement of recommendations made in our 2019 document, *Modernizing New Brunswick's Electoral Legislation*, which remain unaddressed and continue to be relevant and important. Finally, other recommendations directly address issues that arose during this election.

A report offering greater details on the elections and the specific hurdles Elections New Brunswick had to overcome in the May 10, 2021 local elections will be released by the Municipal Electoral Officer later this year.

# Municipal Electoral Officer Emergency Modifications

The *Municipal Elections Act* was amended in December 2020 to provide the Municipal Electoral Officer with discretionary powers that could be exercised in the event of a state of emergency. Subsection 47.01(1) provides as follows:

**47.01(1)** For the purposes of an election, during a state of emergency or a state of local emergency, as those terms are defined in the *Emergency Measures Act*, the Municipal Electoral Officer may modify any provision of this Act to carry out the purpose and intent of this Act, including but not limited to provisions with respect to

- (a) voting procedures,
- (b) the counting of votes,
- (c) time requirements,
- (d) prescribed forms, including the form of ballot papers,
- (e) polling divisions or polling stations,
- (f) the duties of election officers, and
- (g) the number of election officers.

The Municipal Electoral Officer made seven modifications to the *Municipal Elections Act* during the period of the election which impacted normal election procedures. Three of the modifications were required due to the lockdown that occurred in health zone 4, resulting in the suspension of voting in the Edmundston-Madawaska area. The Municipal Electoral Officer determined that the other four modifications to electoral procedures would address potential barriers in the voting process resulting from the pandemic.

All modifications were posted to the Elections New Brunswick website, meeting the requirement under subsection 47.01(6) of the Act to provide notice to the public of the modifications in a manner the Municipal Electoral Officer determined was appropriate.

In accordance with section 47.01 of the *Municipal Elections Act*, the following explain the modifications made for the May 10, 2021 Municipal General Elections.

## Modification 1: Telephone Voting

The Municipal Electoral Officer directed the use of an alternative voting method at the local elections held on May 10, 2021. The alternative voting method described at page 28 of the *Municipal Electoral Officer Directives for Voting by Special Ballot*, “Elector Voting Outside of the Returning Office, By Telephone”, was to be used to facilitate voting by electors in lieu of individual appointments for voting by special ballot outside of the returning office.

This method of voting was directed only to be used to facilitate voting by electors who satisfied both of the following criteria:

- the Special Voting Officers were satisfied the elector would be unable to attend the ordinary or advance polls, or vote at the returning office, due to the illness, incapacity, quarantine or vulnerable health of the elector or a person for whose care the elector was primarily responsible; and
- neither the elector nor a caregiver had access to the technology necessary to submit an *Application for a Special Ballot*, M 06 101, to vote using a mail-in-ballot.

## Modification 2: Voting by Residents of “Treatment Centres”

Under the *Municipal Elections Act*, a “treatment centre” is defined as “a nursing home, special care home, assisted living facility, psychiatric facility, extended care unit in a hospital or any other residential facility operated for the purpose of the care and treatment of ten or more senior citizens or ten or more persons having a physical or mental disability.”

The normal voting processes used to assist residents in special care and nursing homes presented significant health risks in the context of the COVID-19 pandemic. Outside visitors to special care and nursing homes were sharply restricted and many of the election workers employed to collect the votes were themselves members of vulnerable populations. In



order to address these circumstances, the Municipal Electoral Officer directed that a modified mail-in-ballot process be used as an alternative voting method for those electors unable to vote at a regular polling station. This accommodation required no modification of existing provisions to the *Municipal Elections Act*.

To facilitate this process, municipal returning office staff pre-completed, for each elector, individual applications to vote by special ballot using the mail-in process, which were delivered by hand to the treatment centres to obtain electors' signatures on each form. Once all of the applications were signed, returning office staff retrieved them and prepared the ballots required for each facility. These ballots were then delivered to the treatment centres, where staff of the facility were responsible for distributing the ballots and collecting the completed ballots. The process was completed when returning office staff collected the completed ballots.

This process put an additional burden on staff of such facilities who were already under significant pressures due to the COVID-19 pandemic. In recognition of this additional burden, and to facilitate hiring additional staff if appropriate, the Municipal Electoral Officer modified subparagraph 5(b)(iv) of the *General Regulation - Municipal Elections Act* (NB Reg. 2008-26) to allow a payment of \$150.00 to a treatment centre for assistance provided by its staff to facilitate the vote-by-mail process for the center's residents, instead of the prescribed \$85.00 payment.

It was also recognized that staff of treatment centres who were assisting in the administration of the vote-by-mail process might be required to assist individual electors in completing their ballots. In accordance with section 38 of the *Municipal Elections Act*, a voter may choose anyone to assist them with voting; however, such a person must take an oath and may only help one individual elector. Election officers, on the other hand, are not limited in the number of electors they may assist.

In order to ensure that the staff designated by a treatment centre administrator to assist its residents with voting were properly authorized to do so, the Municipal Electoral Officer modified Form M 02 102/103 (*Appointment and Oath/Affirmation of Municipal Returning Office Staff*) to accommodate the appointment of designated staff members of a treatment centre as election officers and to authorize the administrator of the treatment centre or their designate to administer the oath or affirmation to such staff. A copy of the modified appointment and oath can be found at Appendix A.

## Modification 3: Voting at Municipal Returning Offices

As was the case in the September 2020 provincial general elections, the Municipal Electoral Officer strongly encouraged electors to take advantage of alternative voting opportunities in order to reduce congestion on Election Day at ordinary polls. One of those opportunities was to vote at the municipal returning office. However, as was indicated with respect to provincial elections in the January 2021 document, *Post-Election Recommendations for Legislative Change, September 14, 2020*, electors in line to vote at a municipal returning office at 8 p.m. on Election Day are not permitted to vote after this time. This is in contrast to electors in line to vote at a polling station at 8 p.m. on Election Day who are entitled to vote after this time.

To ensure that no elector was disenfranchised, the Municipal Electoral Officer modified section 39.1 of the *Municipal Elections Act* to permit eligible electors to cast a special ballot paper IF, at 8 p.m. on Election Day, they were already in line waiting to vote in-person at that municipal returning office or satellite municipal returning office. No eligible elector who was not actually present and waiting in line to vote at the municipal returning office or satellite municipal returning office at 8 p.m. on Election Day was permitted to vote, regardless of whether others were voting or waiting in line when the person arrived.

In the case of the Kings-Queens returning office in Rothesay and the satellite office in Sussex, this modification was interpreted to also include electors who were required to self-isolate as a result of being connected to potential COVID-19 exposures at area schools and a local daycare. This self-isolation notification occurred on May 8, 2021, and resulted in a large number of electors requesting, on May 10, 2021, to vote by mail using a special ballot. These electors were serviced by individual visits to their homes where special voting officers maintained COVID-19 protocols, allowing these electors to vote throughout the day and well into the evening. In the special circumstances of this late-breaking and wide-spread self-isolation requirement, the Municipal Electoral Officer directed that, so long as the request for a mail-in ballot was received by the returning office or satellite office before 8 p.m. on Election Day, the elector would be accommodated by a home visit. A huge thank you is owed to the returning office staff in Rothesay and Sussex for the significant and extra-ordinary effort they put in on Election Day to ensure the many electors who found themselves suddenly self-isolating were able to vote.

# Modification 4: Suspension of Electoral Process

On April 10, 2021, a portion of health zone 4 was placed in lockdown in accordance with an order of the Minister of Justice and Public Safety under the authority of the *Emergency Measures Act*. As required, under section 3 of *An Act Respecting Municipal General Elections in 2021*, the Municipal Electoral Officer suspended the electoral process in the areas of health zone 4 subject to the lockdown. As required under paragraph 4(1)(e) of that Act, the Municipal Electoral Officer directed that all election officers in the Province “refrain from counting, reporting and recording votes casts until the last scheduled ordinary polling day” in health zone 4.

As a result of the direction to delay the reporting and recording of votes casts, the Municipal Electoral Officer was required to modify sections 39.5, 41, 41.1 and 42 of the *Municipal Elections Act* to permit the centralized processing of tabulation machines and publication of results on the “last scheduled ordinary polling day” in health zone 4. These modifications to the *Municipal Elections Act* can be found at Appendix B. In addition, in accordance with sections 5.1 and 38.02 of the *Municipal Elections Act*, the Municipal Electoral Officer directed the use of an alternative method for the closing of polls and reporting of results for the May 10, 2021 local elections. The directions were set out in the *Municipal Electoral Officer Directives for the Closing of Ordinary and Special Ballot Polls When Election Suspended* (M 01 427/428), which are set out at Appendix C. The Integrity Commissioner, Mr. Charles Murray, provided independent oversight to the centralized process.

Finally, as a result of the suspension of the electoral process in areas of health zone 4, a modification was required to the process by which a nominated candidate could withdraw their nomination. The suspension occurred after the close of nominations, but before the April 12, 2021, deadline for withdrawal of nominated candidates. Under subsection 17(4) of the *Municipal Elections Act*, a nominated candidate must withdraw in writing, witnessed by two qualified voters. In order to facilitate the withdrawal of candidates where residents were in lockdown and to permit the printing of ballots to proceed, the Municipal Electoral Officer modified subsection 17(4) of the *Municipal Elections Act* to read as follows:

**17(4)** In an election in which the Municipal Electoral Officer has suspended the electoral process in accordance with section 3 of *An Act Respecting Municipal General Elections in 2021*, a candidate nominated may withdraw at any time not later than 5:00 p.m. on April 12, 2021, by verbally notifying the municipal returning officer to that effect, and any votes cast for a candidate who has so withdrawn are null and void.

# Municipal Electoral Officer Recommendations

As referenced in the Introduction, some of the recommendations included in this report were made previously in a discussion document released in June 2019.<sup>1</sup> Several recommendations can be undertaken without the requirement of legislative change, and we intend to action them before the next set of municipal by-elections, scheduled for fall 2021.

Finally, in accordance with subsection 47.01(7)<sup>2</sup> of the *Municipal Elections Act*, recommendations for amendments to the *Municipal Elections Act* related to the modifications made to election procedures during the May 2021 local elections, and discussed in Municipal Electoral Officer Emergency Modifications, can be found at the end of this section.

## Recommendations Related to Existing Legislation

### Recommendation 1: Voters List – Fees

The Municipal Electoral Officer recommends that the fee presently charged to candidates for the voters list be eliminated.

In accordance with section 12.1 of the *Municipal Elections Act*, candidates who request a copy of part, or all, of a voters list are required to pay \$0.02 per name on the list, which amount is fixed in the *General Regulation* under the *Municipal Elections Act*. There is a large inequity in the cost of the list between candidates, depending on where the candidate is running and the type of contest in which they are a candidate.

As an example, a candidate running for council in the Village of Alma would have paid \$4.08 for a copy of the voters list, whereas candidates running for the position of mayor in the city of Moncton would pay \$1,037.83 for the list. A candidate running for the Francophone South district education council, subdistrict 9, would have to pay \$2,535.86 for the list for that contest.

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<sup>1</sup>Elections New Brunswick, *Modernizing New Brunswick's Electoral Legislation*, June 2019.

<sup>2</sup>47.01(7) Within four months after ordinary polling day, if the Municipal Electoral Officer has acted under subsection (1) or (2), the Municipal Electoral Officer shall submit to the Speaker of the Legislative Assembly a report with respect to the actions taken under that subsection and include, if appropriate, any recommendations with respect to amendments to this Act."

There is no reasonable justification for the cost to a candidate of receiving a voters list to vary so greatly depending upon the contest in which they are participating. When the fee was added in 1994,<sup>3</sup> the *Municipal Elections Act* only applied to the election of municipal councils and paper lists were still being used. The work involved in preparing a paper list may have been the rationale behind the varying costs, and the large variations in cost have been exacerbated as the *Municipal Elections Act* now applies to the election of district education council representatives and regional health authority board members.

Voters lists are now generated automatically and provided to candidates digitally. A reasonable basis for imposing a fee to receive the voters list no longer exists. Furthermore, the significant cost to receive the voters list in some circumstances could justifiably be seen as a barrier to effective participation of candidates in the democratic process. Finally, an unjustifiable difference exists between candidates for these local offices and candidates for election to the Legislative Assembly. Under the *Elections Act*, which governs the administration of the election of members of the Legislative Assembly, there is no fee for candidates to receive a copy of the voters list for their particular electoral district.

## **Recommendation 2: Voters List – Protecting Vulnerable Electors**

The Municipal Electoral Officer recommends that a means be provided to protect an elector's safety by permitting the Municipal Electoral Officer, on the request of the elector, to redact the elector's personal information included on a voters list provided to a candidate during an election.

In *Modernizing New Brunswick's Electoral Legislation*,<sup>4</sup> the Chief Electoral Officer recommended the *Elections Act* be amended as follows:

Amend the *Elections Act* to permit the Chief Electoral Officer, on the request of an elector, to redact any record made available to political entities, data partners and to the public, any information that the Chief Electoral Officer reasonably believes would, if made available, endanger the life, health or security of the elector. This includes the anonymization of personal information included on a list of electors provided to candidates and registered political parties during an election period.

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<sup>3</sup>An Act to Amend the *Municipal Elections Act*, S.N.B. 1994, c.56, s.2.

<sup>4</sup>Elections New Brunswick, June 2019, pp 22-23.

Like the *Elections Act*, the *Municipal Elections Act* has no provision to protect the privacy or safety of vulnerable electors contained on a voters list. All electors must appear on a voters list in order to vote and the voters list must be shared with candidates on request. Therefore, a vulnerable elector cannot vote without sharing their name and current address with an unknown number of persons.

It is important to be aware that protecting electors from the improper use of the voters list is not just a theoretical concern. In the context of Calgary, Alberta's fall 2021 mayoral race, the Calgary Police raised significant security concerns with all candidates having access to voters' personal information due to a candidate harassing and threatening some voters.<sup>5</sup>

A number of jurisdictions across the country have taken measures to address this serious concern. The Chief Electoral Officer of Ontario, on the written request of a voter, may redact from any record made available to political entities, data sharing partners and to the public, any information that the Chief Electoral Officer reasonably believes would, if made available, endanger the life, health or security of the elector. An elector in Manitoba may request that the Chief Electoral Officer not include the elector's information in the register of voters or a voters list in order to protect the voter's personal security. In British Columbia, the Chief Electoral Officer may prepare a list of voters, including a list of voters used for election purposes, which omits or obscures the address of a voter or other information about a voter in order to protect the privacy or security of the voter.

It is the opinion of the Municipal Electoral Officer that a similar amendment should be made to the *Municipal Elections Act* to protect electors on their request.

### **Recommendation 3: Collection and Publication of Candidate Information**

The Municipal Electoral Officer recommends that candidates be provided the option to determine what additional information about them appears along with their name on the list of candidates posted to the Elections NB website or published in reports. For two decades, each candidate's name, address and gender have been posted online to allow electors to identify the candidates, while 30 years ago, each candidate's name, address and occupation were printed on the ballots.

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<sup>5</sup>Edwardson, L. (2021, May 18). *Calgary mayoral candidate who threatened health workers won't have access to voters' names, addresses*. CBC. <https://www.cbc.ca/news/canada/calgary/calgary-mayoral-candidate-who-threatened-health-workers-won-t-have-access-to-voters-names-addresses-1.6032089>

In the 2021 local elections, a handful of candidates requested that their home addresses not be included on the Elections New Brunswick website. In three instances, these were young, female candidates who were not comfortable having their personal address displayed publicly. A temporary programming change was made to allow the address of the municipal returning office to be used as the default service address of these candidates.

The Municipal Electoral Officer recommends that candidates still be required to include their civic address on the nomination papers as this is needed for the municipal returning officer to confirm a candidate's eligibility.

The Municipal Electoral Officer also recommends that the format for presenting a candidate's name posted on Elections New Brunswick's website be revised to exclude gender. Further, on candidate nomination papers, the term "gender" will replace references to "sex". There is no legislated requirement to include this information on the public website, but simply continued past practice when Elections New Brunswick began providing candidate information on the internet. Members of the public have questioned why the sex of candidates are included on the Elections New Brunswick website with the list of candidates.

Although a candidate's gender will no longer appear on the candidate information webpage, Elections New Brunswick will continue to collect this information from candidates on a voluntary basis. This data is often requested by social science researchers and groups advocating for greater participation by female candidates; therefore, the aggregate data will continue to be published in final election reports. It should be noted, however, that advocacy groups will not have access to this information on the public website during an election. If they wish to have this information during the election, they will have to contact Elections New Brunswick directly or contact candidates individually.

In addition, it is recommended that the requirement for a candidate to provide their occupation on their nomination papers be eliminated. There is no current relevance to the collection of this particular information, no historical context available to explain the original rationale for its collection, and it is not published in any election report.

#### **Recommendation 4: Remuneration of Election Workers**

The Municipal Electoral Officer recommends that wages currently paid to election workers be increased immediately and that future increases be moved from the current regulatory process, which requires approval of Executive Council for any changes, to a more flexible and responsive process that recognizes changing pay requirements and is adaptable to

Canada Revenue Agency rules. The Municipal Electoral Officer recommends that payment of wages to election workers to work and be trained be based on recommendations of the Municipal Electoral Officer and subject to approval by a committee of the Legislative Assembly such as the Legislative Administration Committee.

Of the 14 election offices across Canada, eight jurisdictions have a mechanism to gradually increase the pay rates for election officers, tying it to the provincial minimum wage (Manitoba, Nova Scotia, Newfoundland and Labrador, and PEI), the Consumer Price Index for Canada (Ontario and Elections Canada) or public service classification pay scales (Quebec and Nunavut). The remainder, including New Brunswick, have a fixed tariff which must be periodically updated.

The Chief Electoral Officer has made official requests for amendments to the regulations establishing the rates of pay for election workers to two successive governments since 2017. Those requests were rejected on both occasions. In addition to these formal requests, a recommendation to increase wages paid to election workers was included in the *Post-Election Recommendations for Legislative Change, September 14, 2020*, which was submitted to the Speaker of the Legislative Assembly on January 21, 2021.

During the election, the Municipal Electoral Officer received numerous complaints from poll workers regarding the low rate of pay, and one complaint from a member of the Legislative Assembly inquiring on behalf of constituents where they should direct a complaint about the salary paid to election workers. In addition, many municipal returning officers reported difficulty recruiting qualified poll workers for the rates paid, particularly for the key position of poll supervisor and for spares, and receiving repeated complaints regarding the wages from even those who agreed to work.

On May 19, 2021, Elections New Brunswick was notified by the Employment Standards Branch of Post-Secondary Education, Training and Labor of two complaints filed with it concerning wages paid to poll workers; specifically, that the flat rate required to be paid under the *General Regulation – Municipal Elections Act*,<sup>6</sup> when calculated on an hourly basis, violated the *Minimum Wage Regulation* under the *Employment Standards Act*.

Subsequently, on July 21, 2021, Elections New Brunswick was advised that it had been determined that the flat rate paid to poll workers for training violated the *Minimum Wage Regulation* and did not meet the minimum requirements of the *Employment Standards Act*, including payment of 4% vacation pay. In addition, it was found that, depending on the hours worked

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<sup>6</sup>N.B. Reg. 2008-26, s.5.



by a poll worker and their position, the daily maximum wage rate of \$150 for advance and ordinary polling days also violated those minimum requirements. Finally, Elections New Brunswick was found not to be complying with subsection 60(1) of the *Employment Standards Act* by not keeping detailed employment records on each of its upwards of 4,000 poll workers. Elections New Brunswick issued supplementary cheques to polling station workers, whose required training hours exceeded the minimum requirements of the *Employment Standards Act*.

Multiple elections are required to be held each year, and these determinations by the Employment Standards Branch underscore the urgent need for the salary of election workers to be addressed and for sufficient resources to be provided to Elections New Brunswick to implement a payroll system that can respond to these requirements.

### **Recommendation 5: Restricted Advertising Period**

The Municipal Electoral Officer recommends that the current prohibition on certain forms of election advertising on Election Day and the day preceding Election Day known as the restricted advertising period, be removed from the *Municipal Elections Act*. This same recommendation was made by the Chief Electoral Officer in 2019 in *Modernizing New Brunswick's Electoral Legislation*.<sup>7</sup>

Subsection 55(2) of the *Municipal Elections Act* prohibits the broadcast over radio or television, the publication in a newspaper, magazine or similar publication and the transmission by any means to telephones, computers, telecopier machines, or any other device capable of receiving unsolicited communication of any form of partisan election advertising on ordinary polling day or the day immediately preceding it in favour of or on behalf of any candidate.

Modern day elections are run much differently than when the *Municipal Elections Act* was enacted in 1979. Communication mechanisms such as *Facebook*, *Twitter*, and the internet were never anticipated. In practice, this provision has little impact on the public: election signs may remain posted along streets; new election signs may be placed; candidates may continue to distribute flyers; Canada Post may continue to deliver advertisements by mail; and campaign workers may continue to make personal telephone calls to potential voters.

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<sup>7</sup>*Supra* note 4 at p.99.

In general, candidates simply want a level playing field. When one candidate posts a “Get out and vote on Monday” message to their *Facebook* account, many electors and other candidates view this as being illegal, causing significant debate and discussion, when it simply is not warranted. This election saw a litany of complaints from candidates, candidate representatives and citizens over social media posts (primarily Facebook) that were perceived to be violating the restricted advertising period. These were ultimately determined not to be in violation of the applicable provision.

In today’s connected society, there is no reason to retain this restriction on transmitting election advertising on Election Day and the day prior. The legislation was written before the existence of modern communication tools such as *Facebook*, *Twitter*, and other social media platforms. If the prohibition on transmitting election advertising were expanded to include these social media platforms, the effort required to police, investigate and gather evidence to prosecute such an offence within the digital realm would overwhelm existing resources.

## **Recommendation 6: District Education Council and Regional Health Authority Board Elections**

The Municipal Electoral Officer recommends entering discussions with the Department of Health and the Department Education and Early Childhood Development to explore alternative options for conducting elections of District Education Council (“DEC”) representatives and Regional Health Authority (“RHA”) board members.

In the May 2021 elections, the average voter turnout for Anglophone DEC contests was 15.67%, with the lowest being 4.93%. The average turnout for Francophone DEC contests was 27.32%, with the lowest participation rate being 14.4%. Elections for RHA boards saw similarly dismal participation rates; an average of 21.65% of eligible electors cast ballots for candidates running for the Vitalité health authority board, and 17.30% for the Horizon health authority board.

In one rural polling station in Knowlesville, Carleton County, where electors could only vote for DEC and RHA candidates, only three of the eligible 95 electors voted on Election Day. Assuming the returning officer employed the suggested number of staff, the estimated cost to operate the polling station was \$458.33/cast ballot, excluding any additional travel expenses. By contrast, at a polling station set up in the municipality of Memramcook on an advance voting day, where 1,174 of the 4,070 eligible electors cast a ballot, the estimated cost to operate the polling station was \$1.64/cast ballot. Province-wide, the average cost per cast ballot in advance and

ordinary polling stations at locations in municipalities was \$5.89/cast ballot, compared to an average of \$41.28/cast ballot in rural polling stations.

Given the expense of operating traditional polling stations where only DEC and RHA elections are taking place and the continuing trend of low participation rates, discussions need to be entered into with the government and stakeholders to determine if there are more cost-effective alternative voting methods available to conduct these elections that will respect the democratic rights of New Brunswickers and encourage greater voter participation in these important local elections.

## **Recommendation 7: Recounts and Participation**

The Municipal Electoral Officer recommends amending the *Municipal Elections Act* to provide a municipal returning officer or, in the case of a judicial recount, a judge of The Court of Queen's Bench with the authority to require a candidate or their representative to appear at the recount. On occasion, their input should be considered when determining the validity of a vote that is in question.

In addition, the Municipal Electoral Officer recommends that the Act be amended to provide a candidate with clear authority to withdraw their request for a recount, if, at some point during the conduct of the recount, the candidate becomes satisfied the results from Election Day will be upheld and does not wish to continue with the recount. The municipal returning officer would be authorized to halt the recount on receipt of the written request of the candidate who requested the recount. It is only recommended that this option be applicable to a recount conducted by a municipal returning officer.

## **Recommendation 8: Clarity of Boundary Descriptions**

The Municipal Electoral Officer recommends that government lead an exercise to standardize the legal descriptions used by government departments and agencies to establish and update geographic boundaries that are used to determine, amongst other things, the delivery of emergency and other services, taxation rates, health zones and electoral boundaries.

At present, the data available to Elections New Brunswick for determining the boundaries of the various municipal, district education council and regional health authority boundaries must, by necessity, come from a number of sources within government. A variety of methods are used to create both legal boundaries and administrative regions, including legal descriptions which use one or more of parcel references, maps, lists of community areas, and metes and bounds, often in a single legal instrument.

This patchwork of sources and methods frequently results in conflicting information amongst sources and often makes determining election boundaries difficult.

When determining which electors are permitted, or not permitted, to vote in a particular contest, election boundaries need to be explicitly clear and precise (i.e. down to individual civic addresses) and not require significant research. New Brunswick needs a single authoritative body to manage addresses that uses modern geographic information systems technology to accurately and definitively map every home and parcel in the Province. Once shared, departments and agencies across government would have access to this single-source of data to effectively and efficiently provide services to New Brunswickers, and provide a standard method to identify future changes.

### **Recommendation 9: Qualifications of Election Officers**

The Municipal Electoral Officer recommends that the *Municipal Elections Act* and the *Elections Act* be amended to extend the eligibility rules of election officials to include permanent residents.

Under current legislation, persons not qualified as electors are prohibited from being appointed as election officers, which includes returning office and polling station staff. Permitting permanent residents to be appointed as election officers follows on the decision in 2006 to extend the eligibility to be appointed as an election officer to youth who are 16 years of age or older.

As was the case with extending eligibility to young New Brunswickers, providing permanent residents with the opportunity to work as election officers would create a pool of new workers who could help backfill the aging, casual workforce we rely upon heavily for staffing polling stations. There are an estimated 30,000 permanent residents currently living in New Brunswick.

Organizations have been lobbying to extend the right to vote in municipal elections to permanent residents residing in the Province. Opening the door to allowing them to be hired temporarily as election officers could be viewed as a first step in exposing them to our electoral process and procedures.

## Recommendation 10: First Nations Engagement

The Municipal Electoral Officer recommends that Elections New Brunswick initiate a conversation with New Brunswick's First Nation communities with the objective of determining their interest in establishing a program to enhance election services offered in First Nation communities for future provincial and municipal elections.

New Brunswick is home to the Wolastoqey, Mi'gmaq and Peskotomuhkati people, who live in 16 First Nation communities spread across the Province and off reserve. In past elections, returning officers in electoral regions that include a First Nation community have identified the need for steps to be taken to ensure more First Nation electors are aware of the process for participating in these elections. Some First Nation leaders have also lobbied Elections New Brunswick to place a polling station in their communities to encourage greater voter participation by their members.

Using a similar approach to that taken by Elections Nova Scotia in advance of its 2017 provincial general election, the Chief Electoral Officer of Elections New Brunswick proposes engaging with the Chiefs of the sixteen First Nations, as well as the New Brunswick Aboriginal People's Council which represents indigenous people living off reserve, to begin a dialogue to identify barriers that exist to electoral participation by First Nation electors. This could lead to the development of a program to enhance services for First Nation electors in advance of the next scheduled provincial general election in 2024.

## Recommendations Related to Municipal Electoral Officer Modifications

### Recommendation 11: Voting at Returning Offices

The Municipal Electoral Officer recommends that the *Municipal Elections Act* be amended to permit electors waiting in line to vote in person at a municipal returning office or a satellite office after 8 p.m. on Election Day be entitled to vote. Currently, all special ballots, including those cast in person at returning offices, must be returned to the returning office no later than 8 p.m. on Election Day.

During the May 10, 2021 local elections, the Municipal Electoral Officer used the authority provided under subsection 47.01(1) of the *Municipal Elections Act* to modify section 39.1 of the Act to permit eligible electors to cast a special ballot paper IF, at 8 p.m. on Election Day, they were already in line waiting to vote in person at that municipal returning office or satellite

municipal returning office. This ensured that those voting in person at returning offices were treated in the same manner as those voting at polling stations, where anybody waiting in line to vote at the 8 p.m. close of polls on Election Day was entitled to vote.

This same recommendation was made to the Legislative Assembly on January 21, 2021 with respect to provincial elections following the September 14, 2020 provincial general election.<sup>8</sup> As indicated in that document, the Municipal Electoral Officer believes there is no justification for such a distinction that clearly disenfranchises voters who choose to vote at a returning office for any number of reasons.

## Recommendation 12: Telephone Voting

The Municipal Electoral Officer recommends that the *Municipal Elections Act* and the *Elections Act* be amended to either:

- ① provide flexibility to adapt the prescribed special ballot voting procedure to accommodate electors unable to attend the ordinary or advance polls, or to vote by mail or at the returning office, due to the illness, incapacity, quarantine or vulnerable health of the elector or a person for whose care the elector is primarily responsible, or other exceptional circumstance of the elector; or
- ② prescribe the telephone voting procedure as an alternative special ballot voting method to accommodate electors unable to attend the ordinary or advance polls, or to vote by mail or at the returning office, due to the illness, incapacity, quarantine or vulnerable health of the elector or a person for whose care the elector is primarily responsible, or other exceptional circumstance of the elector.

As discussed in Modification 1, *Telephone Voting*, during the May 10, 2021 local elections, the Municipal Electoral Officer used the authority provided under subsection 47.01(1) of the *Municipal Elections Act* to authorize the use of “telephone voting” as an alternative voting method to facilitate voting by electors in lieu of individual appointments for voting by special ballot outside of the returning office.

The circumstances in which telephone voting was authorized to be used were significantly limited as it was a resource intensive process. It was intended to be, and was communicated as, a voting alternative of “last resort” for those electors who would otherwise be disenfranchised. It was

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<sup>8</sup>Elections New Brunswick, *Post-Election Recommendations for Legislative Change, September 14, 2020*, p.13.

used by electors who were self-isolating due to COVID-19 restrictions; electors with health vulnerabilities who were limiting their public contacts; hospitalized electors; and electors temporarily outside of New Brunswick for whom voting by mail was not a practical alternative.

The Municipal Electoral Officer believes that electors may find themselves in similar circumstances in future elections that are not associated with a state of emergency, such as patients in hospital required to be in isolation or Canadian Forces members deployed on a ship at sea. Therefore, in order to further enhance voter access, the Municipal Electoral Officer recommends that both the *Municipal Elections Act* and the *Elections Act* be amended to facilitate the use of this exceptional method of alternative voting, either by prescribing the use of telephone voting for special ballot voting or authorizing the Municipal Electoral Officer or Chief Electoral Officer, as the case may be, to adapt the special ballot voting procedure to accommodate electors in these unique circumstances. Depending on the recommendation adopted, further consideration will be required to determine the optimal manner in which to implement any alternative voting method.<sup>9</sup>

### **Recommendation 13: Voting by Residents of Treatment Centres**

The Municipal Electoral Officer recommends that the *Municipal Elections Act*, the *Elections Act* and the regulations under those Acts be amended to adopt the modifications made by the Municipal Electoral Officer to facilitate modified mail-in balloting at treatment centres.

As discussed in Modification 2, *Voting by Residents of “Treatment Centres”*, the Municipal Electoral Officer directed that a modified mail-in-ballot process be used as an alternative voting method for the residents of long-term care facilities (referred to as “treatment centres”) to enable them to vote during the May 10, 2021 local elections. This direction required no modifications to the provisions of the *Municipal Elections Act*. However, as a result of lessons learned from using the same process during the September 14, 2020 provincial general election, several such modifications were made to improve this process; namely, the ability to swear-in staff of treatment centres as election officers and an increased payment of \$150 to treatment centres to compensate them for the participation of their staff in the electoral process.

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<sup>9</sup>For example, telephone voting may be more effectively implemented using a centralized model similar to that used in British Columbia. This could address potential concerns around maintaining the anonymity of telephone voters and staffing resources in returning offices.

The Municipal Electoral Officer recommends that these modifications be adopted permanently. Returning officers will resume conducting additional polls in treatment centres when COVID-19 restrictions come to an end. However, a situation may arise in the future in which visitors are prohibited from entering a treatment centre – be it due to a public health situation affecting the population-at-large or a localized influenza or other outbreak. In either case, it would be beneficial to have the tools in place to effectively and efficiently take the vote of residents of such a facility should restrictions be put in place during an election and it is agreed, between the returning officer and the administrator of the facility, that it is not appropriate to conduct an additional poll in the facility.

## Conclusion

The recommendations that are being brought forward to improve our electoral processes will only advance if members of New Brunswick's Legislative Assembly support the changes that we are requesting.

Whether these recommendations for process improvements become legislative amendments is largely at the discretion of the executive branch of government. We can only hope they are given the debate and consideration that they warrant.

This is the second province-wide election that has been conducted in New Brunswick during the COVID-19 pandemic. With the next provincial general election not scheduled to occur until October 2024, it is our fervent hope this will be the last election we administer under these unusual and challenging circumstances.

We are thankful to all New Brunswickers for doing their part, both as electors and election workers, in supporting our efforts to ensure these elections were conducted in a safe and secure manner.



# **Appendix A: Appointment of Treatment Centre Staff as Election Officer**

**APPOINTMENT OF  
TREATMENT CENTRE STAFF AS ELECTION  
OFFICER**

*(Municipal Elections Act, SNB 1979, c. M-21.01, ss. 7(3) and ss. 47.01(1))*



**M 02 102 (S)**  
**(2021-03-10)**

To: \_\_\_\_\_  
(Name)

of \_\_\_\_\_  
(Civic Address)

In my capacity as Municipal Returning Officer for Electoral Region \_\_\_\_\_, \_\_\_\_\_,  
(No.) (Name)

I hereby appoint you to be an Election Officer in the elections and any plebiscite to be held on May 10, 2021  
in \_\_\_\_\_.  
(Electoral Region)

I give you permission to carry out your duties to assist electors in voting at the

\_\_\_\_\_  
(Name of Treatment Centre)

Given under my hand at \_\_\_\_\_ in the County of \_\_\_\_\_,  
Province of New Brunswick this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Municipal Returning Officer

**OATH OR AFFIRMATION OF TREATMENT CENTRE STAFF**

*(Municipal Elections Act, SNB 1979, c. M-21.01, ss. 7(3) and ss. 47.01(1))*

I, \_\_\_\_\_  
(Name)

of \_\_\_\_\_  
(Civic Address)

appointed as an Election Officer for Electoral Region \_\_\_\_\_,  
(No.) (Name)

in the elections and any plebiscite to be held on May 10, 2021 in \_\_\_\_\_  
(Electoral Region)

do swear or solemnly affirm: that I am not a family associate\* of any candidate; that I will well and truly carry out my duties as an election officer, without partiality, fear, favour or affection, and in every respect according to law; that I will keep secret the votes cast by any voters who mark their ballots in my presence at this election; and that I will keep secret and not disclose to any person any information given to me from the lists of electors or any other records of or in the office of Elections New Brunswick or obtained from such lists or records by reason of my access thereto and that I will not use such information for any reason other than electoral purposes. (If swearing, add "So help me God.")

Sworn to or solemnly affirmed before me at \_\_\_\_\_ in the County of \_\_\_\_\_ and  
Province of New Brunswick, the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
Treatment Centre Administrator or Designate

\_\_\_\_\_  
Election Officer

\* "family associate" means a spouse, parent, child, brother or sister of a candidate or of the spouse of a candidate.

**Being Non-Partisan  
Elections Officers of Elections New Brunswick**

Elections New Brunswick (ENB) is a non-partisan Office of the Legislative Assembly. Due to the nature of this role and the strict requirements for impartiality in order to build and sustain public confidence in the organization, Election Officers must be and appear to be non-partisan and avoid open participation in partisan political activity. This policy is not meant in any way to interfere with an Election Officer's rights but focuses on the collective responsibilities and public expectations of the organization as a whole.

It is essential that all Elections Officers be, and appear to be, impartial in the conduct of their duties. This policy extends from the time you take your oath of office until the conclusion of your appointment, which at a treatment centre, would be when the last elector has voted.

**Completion Instructions for Appointing Treatment Centre staff as an Election Officer**

**1. Municipal Returning Officer**

Complete and sign the Appointment portion of the form for each staff member designated by the treatment centre administrator to assist that centre's eligible electors with the completion of their mail-in voting packages.

In the Oath or Affirmation portion, complete the portions above the oath/affirmation (i.e.: name, civic address, and electoral region).

Forward the completed form(s) to the treatment centre when the mail-in voting packages are delivered to the treatment centre. Ask the treatment centre administrator or designate to sign the form(s) with the staff member.

When the form(s) are returned to you by the treatment centre, retain them on file with your other Appointments and Oaths.

**2. Treatment Centre Administrator**

Before a staff member may assist any residents with completing their mail-in voting packages, each staff member designated for this purpose must read their Appointment, Oath and the information on being non-partisan, and then take the oath or affirmation.

To swear or affirm, each designated staff member reads the oath/affirmation aloud before you and signs where indicated. You then complete the portion indicating the place and time of the oath/affirmation and sign where indicated.

Return all original, completed forms with the completed mail-in voting packages to the municipal returning officer. You may keep copies for your records and may provide copies to each staff member who was appointed as an election officer.



# **Appendix B: An Act Respecting Municipal General Elections in 2021**

## CHAPTER 6

**An Act Respecting  
Municipal General Elections in 2021***Assented to March 26, 2021*

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## CHAPITRE 6

**Loi concernant  
les élections générales municipales de 2021***Sanctionnée le 26 mars 2021*

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5	Immunité de poursuite
6	Entrée en vigueur

Her Majesty, by and with the advice and consent of the Legislative Assembly of New Brunswick, enacts as follows:

### Definitions and interpretation

1(1) The following definitions apply in this Act.

“COVID-19” means the notifiable disease COVID-19 listed in Part 1 of Schedule A of the *Reporting and Diseases Regulation – Public Health Act*. (COVID-19)

“election”, except if the context otherwise requires, means

- (a) a general election that is required to be held in 2021 under *An Act Respecting Elections in 2020* and any plebiscite held in conjunction with that general election,
- (b) the District Education Council elections held under the *Education Act* in conjunction with that general election, or
- (c) an election held under the *Regional Health Authorities Act* in conjunction with that general election. (elections)

“health region” means a health region as defined in the *Public Health Act*. (région sanitaire)

“lockdown” means, subject to subsection (2), the alert level in response to COVID-19 that includes lockdown measures set out in an order made by the Minister of Justice and Public Safety under section 12 of the *Emergency Measures Act*. (confinement)

1(2) For the purposes of this Act, a health region is considered to be in a lockdown if an order made by the Minister of Justice and Public Safety under section 12 of the *Emergency Measures Act* provides that

- (a) the residents of the health region are required to take every reasonable step to reduce human interaction to true essentials, and
- (b) travel into and out of the health region is prohibited, except as provided for in the order.

Sa Majesté, sur l’avis et avec le consentement de l’Assemblée législative du Nouveau-Brunswick, édicte :

### Définitions et interprétation

1(1) Les définitions qui suivent s’appliquent à la présente loi.

« confinement » Sous réserve du paragraphe (2), s’entend de la phase d’alerte en réponse à la COVID-19 qui comprend les mesures de confinement énoncées dans l’arrêté que prend le ministre de la Justice et de la Sécurité publique en vertu de l’article 12 de la *Loi sur les mesures d’urgence*. (lockdown)

« COVID-19 » La maladie à déclaration obligatoire mentionnée à la partie 1 de l’annexe A du *Règlement sur certaines maladies et le protocole de signalement – Loi sur la santé publique*. (COVID-19)

« élections » Sauf indication contraire du contexte, s’entend de ce qui suit :

- a) les élections générales devant avoir lieu en 2021 en application de la *Loi concernant les élections de 2020* ainsi que tout plébiscite tenu en même temps que celles-ci;
- b) les élections des conseils d’éducation de district tenues en application de la *Loi sur l’éducation* en même temps que ces élections générales;
- c) les élections tenues en application de la *Loi sur les régions régionales de la santé* en même temps que ces élections générales. (election)

« région sanitaire » S’entend selon la définition que donne de ce terme la *Loi sur la santé publique*. (health region)

1(2) Pour l’application de la présente loi, une région sanitaire est réputée être en confinement si l’arrêté que prend le ministre de la Justice et de la Sécurité publique en vertu de l’article 12 de la *Loi sur les mesures d’urgence* prévoit à la fois ce qui suit :

- a) ses résidents sont tenus de prendre toute mesure raisonnable pour réduire les interactions humaines à celles qui sont vraiment nécessaires;
- b) il est interdit d’y entrer ou d’en sortir, sauf exceptions prévues par l’arrêté.

**Application of Act**

2 This Act applies if a health region enters into a lockdown during an election period.

**Suspension of the electoral process and activities related to an election**

3 Despite subsections 47(2) and 47.01(5) of the *Municipal Elections Act*, subsection 54(1) of the *Local Governance Act* and Order in Council 2020-207 made under *An Act Respecting Elections in 2020*, the Municipal Electoral Officer shall suspend the electoral process and all activities related to an election held in a health region referred to in section 2, including, without limitation, voting.

**Resumption of the electoral process and activities related to an election**

4(1) If the Municipal Electoral Officer acts under section 3 in respect of a health region, despite any provision of the *Municipal Elections Act* and any Order in Council made under *An Act Respecting Elections in 2020*,

- (a) the Municipal Electoral Officer shall ensure that the electoral process and activities related to the election resume within 30 days after the date the lockdown ends in the health region,
- (b) the Municipal Electoral Officer shall set an alternative date for the close of nominations in any contest impacted by the lockdown of the health region, if nominations have not already closed,
- (c) the Municipal Electoral Officer shall set an alternative date for voting at advanced polls in the health region, if an advanced poll has not already been held,
- (d) the Municipal Electoral Officer shall change the ordinary polling day for the health region,
- (e) the Municipal Electoral Officer shall direct election officers to refrain from counting, reporting and recording votes cast until the last scheduled ordinary polling day set under paragraph (d), and
- (f) municipal returning officers shall refrain from making any declaration under section 41 of the *Municipal Elections Act* until the last scheduled ordinary polling day set under paragraph (d).

**Champ d'application de la Loi**

2 La présente loi s'applique si une région sanitaire passe en confinement pendant une période électorale.

**Suspension du processus électoral et des activités liées aux élections**

3 Par dérogation aux paragraphes 47(2) et 47.01(5) de la *Loi sur les élections municipales*, au paragraphe 54(1) de la *Loi sur la gouvernance locale* et au décret en conseil 2020-207 pris en vertu de la *Loi concernant les élections de 2020*, le directeur des élections municipales est tenu de suspendre le processus électoral ainsi que toutes les activités liées aux élections, y compris, notamment, le vote, qui sont tenues dans une région sanitaire visée à l'article 2.

**Reprise du processus électoral et des activités liées aux élections**

4(1) Par dérogation aux dispositions de la *Loi sur les élections municipales* et à tout décret en conseil pris en vertu de la *Loi concernant les élections de 2020*, si le directeur des élections municipales prend la mesure prévue à l'article 3 à l'égard d'une région sanitaire :

- a) il veille à la reprise du processus électoral et des activités liées aux élections dans les trente jours de la date à laquelle le confinement de cette région sanitaire prend fin;
- b) il fixe une nouvelle date pour la clôture du dépôt des candidatures dans tout scrutin sur lequel le confinement de cette région sanitaire a une incidence, si celle-ci n'a pas déjà eu lieu;
- c) il fixe une nouvelle date pour la tenue de scrutins par anticipation dans cette région sanitaire, si celle-ci n'a pas déjà eu lieu;
- d) il change la date du jour ordinaire du scrutin dans cette région sanitaire;
- e) il donne aux membres du personnel électoral la directive de ne pas compter les voix exprimées, de ne pas faire rapport sur celles-ci ni de les consigner dans un registre jusqu'au dernier jour ordinaire du scrutin dont la date a été fixée en application de l'alinéa d);
- f) les directeurs du scrutin municipal ne font aucune déclaration en application de l'article 41 de la *Loi sur les élections municipales* jusqu'au dernier jour ordinaire du scrutin dont la date a été fixée en application de l'alinéa d).



4(2) If the Municipal Electoral Officer acts under section 3 in respect of a health region, despite sections 170 and 203 of the *Local Governance Act* and any Order in Council made under section 4 of *An Act Respecting Elections in 2020*, the Minister of Local Government and Local Governance Reform may

- (a) set an alternative date for calling a meeting to elect the members of a local service district advisory committee, and
- (b) extend the term of office of the members of the local service district advisory committee who held office immediately before the commencement of this section.

4(3) A municipal returning officer subject to a direction given under paragraph (1)(e) shall comply with the direction.

4(4) If the Municipal Electoral Officer acts under section 3 in respect of a health region, the deadlines in subsection 41.1(1) and section 42.1 of the *Municipal Elections Act* and the 10-day deadline in subsection 42(1) of that Act beginning after the date of the election shall be calculated from the last scheduled ordinary polling day set under paragraph (1)(d).

4(5) If the Municipal Electoral Officer acts under section 3 in respect of a health region, despite section 36.6 and subsections 36.7(1) to (3.1) of the *Education Act* and any Order in Council made under section 3 of *An Act Respecting Elections in 2020*, but subject to subsection 36.7(4) of the *Education Act*,

- (a) the term of office of a person who is elected as a councillor of a District Education Council in an election held in conjunction with the general election held in 2021 under *An Act Respecting Elections in 2020* begins on the first day of the month following the 45-day period beginning immediately after the last scheduled ordinary polling day set under paragraph (1)(d) and ends on the thirtieth day of June following the next District Education Council elections,

4(2) Si le directeur des élections municipales prend la mesure prévue à l'article 3 à l'égard d'une région sanitaire, par dérogation aux articles 170 et 203 de la *Loi sur la gouvernance locale* et à tout décret en conseil pris en vertu de l'article 4 de la *Loi concernant les élections de 2020*, le ministre des Gouvernements locaux et de la Réforme de la gouvernance locale peut à la fois :

- a) fixer une nouvelle date pour la convocation d'une assemblée en vue d'élire les membres du comité consultatif d'un district de services locaux;
- b) prolonger le mandat des membres du comité consultatif d'un district de services locaux qui étaient en fonction immédiatement avant l'entrée en vigueur du présent article.

4(3) Les directeurs du scrutin municipal visés par la directive prévue à l'alinéa (1)e) sont tenus de s'y conformer.

4(4) Si le directeur des élections municipales prend la mesure prévue à l'article 3 à l'égard d'une région sanitaire, les délais impartis au paragraphe 41.1(1) et à l'article 42.1 de la *Loi sur les élections municipales* ainsi que celui de dix jours qui suivent la date de l'élection impartie au paragraphe 42(1) de cette loi se calculent à compter de la date du dernier jour ordinaire du scrutin qui a été fixée en application de l'alinéa (1)d).

4(5) Si le directeur des élections municipales prend la mesure prévue à l'article 3 à l'égard d'une région sanitaire, par dérogation à l'article 36.6 et aux paragraphes 36.7(1) à (3.1) de la *Loi sur l'éducation* ainsi qu'à tout décret en conseil pris en vertu de l'article 3 de la *Loi concernant les élections de 2020* mais sous réserve du paragraphe 36.7(4) de la *Loi sur l'éducation* :

- a) chaque conseiller élu à un conseil d'éducation de district lors des élections tenues en même temps que les élections générales de 2021 tenues en application de la *Loi concernant les élections de 2020* exerce son mandat à compter du premier jour du mois suivant une période de quarante-cinq jours qui débute immédiatement après la date du dernier jour ordinaire du scrutin fixée en application de l'alinéa (1)d), ce mandat prenant fin le 30 juin qui suit les prochaines élections des conseils d'éducation de district;

(b) the term of office of a councillor of a District Education Council in office on the commencement of this section is extended to the date immediately preceding the date of the commencement of the terms of office of the councillors referred to in paragraph (a), and

(c) the term of office of a councillor appointed under subsection 36.2(3.1) of the *Education Act* to replace a councillor referred to in paragraph (b) begins at the same time as the term of office of a councillor referred to in paragraph (a) and ends on June 30, 2022.

4(6) If the Municipal Electoral Officer acts under section 3 in respect of a health region, the Municipal Electoral Officer shall inform the public of the changes resulting from that action in the manner that the Municipal Electoral Officer considers appropriate.

#### **Immunity**

5 No action or other proceeding lies or shall be instituted against the Municipal Electoral Officer and the members of the Municipal Electoral Officer's staff or against the Minister of Local Government and Local Governance Reform for anything done or purported to be done in good faith or for anything omitted in good faith under this Act.

#### **Commencement**

6 *This Act shall be deemed to have come into force on March 20, 2021.*

b) le mandat de tout conseiller en fonction au sein d'un conseil d'éducation de district à l'entrée en vigueur du présent article est prorogé jusqu'à la date qui précède immédiatement celle à laquelle les conseillers visés à l'alinéa a) entrent en fonction;

c) le mandat de tout conseiller nommé en application du paragraphe 36.2(3.1) de la *Loi sur l'éducation* pour remplacer un conseiller visé à l'alinéa b) débute en même temps que celui d'un conseiller visé à l'alinéa a) et prend fin le 30 juin 2022.

4(6) Le directeur des élections municipales qui prend la mesure prévue à l'article 3 à l'égard d'une région sanitaire informe le public de tout changement qui en découle de la manière qu'il estime indiquée.

#### **Immunité de poursuite**

5 Bénéficient de l'immunité de poursuite engagée par voie d'action ou autre instance le directeur des élections municipales et les membres de son personnel ainsi que le ministre des Gouvernements locaux et de la Réforme de la gouvernance locale pour tout acte accompli ou ayant apparemment été accompli de bonne foi ou pour toute omission commise de bonne foi dans le cadre de la présente loi.

#### **Entrée en vigueur**

6 *La présente loi est réputée être entrée en vigueur le 20 mars 2021.*

# **Appendix C: Municipal Electoral Officer Directives for the Closing of Ordinary and Special Ballot Polls When Election is Suspended**

# Municipal Electoral Officer Directives for the Closing of Ordinary and Special Ballot Polls When Election Suspended



**M 01 427**  
(2021-04-22)

*(An Act Respecting Municipal General Elections in 2021, SNB 2021, c.5, s. 4(1)(d), and Municipal Elections Act, SNB 1979, c. M-21.01, ss. 38.02, 39.5 and 47.01(1))*

In an election held under the *Municipal Elections Act* on May 10, 2021, or on any other day before the last scheduled ordinary polling day set under paragraph 4(1)(d) of *An Act Respecting Municipal General Elections in 2021* (“last scheduled ordinary polling day”), the following instructions shall be followed for the close of ordinary and special ballot polls and shall replace the *Municipal Electoral Officer Directives for the Counting of Ballots* (M 01 403) and the portion of the *Municipal Electoral Officer Directives for Voting Procedures in a Polling Station* (M 01 419) entitled “Closing the Polling Station – Tabulation Machine Officers”.

These instructions **do not apply** to an election held on the last scheduled ordinary polling day.

**No ballots cast at the advance polls or ordinary polls may be counted prior to the last scheduled ordinary polling day.** All advance poll and ordinary poll tabulation machines will be returned to the returning office following the poll and stored securely until the day after Election Day.

On the day after Election Day, each Municipal Returning Officer will securely return the tabulation machines and ballot transfer boxes to the Municipal Electoral Officer in Fredericton, where they will be stored securely until the last scheduled ordinary polling day. All tabulation machines will have their results counted on the last scheduled ordinary polling day. At that time, the election officers designated by the Municipal Electoral Officer will close the polls on the tabulation machines returned by the Municipal Returning Officers.

The Municipal Electoral Officer shall live stream for public viewing the closing of the poll on the tabulation machines and the counting of the ballots on the last scheduled ordinary polling day. The Municipal Electoral Officer shall provide notice to the public and to all candidates of how and when the process may be viewed.

## **Close of Advance and Ordinary Polling Stations**

After the Poll Supervisor declares a polling station closed, the Tabulation Machine Officers shall complete the following procedures:

- Wait until the Poll Supervisor has declared the poll closed.
- Process any ballots in the Auxiliary Compartment or in a ballot box designated for curbside voting:
  - Remove any ballots in the Auxiliary Compartment or in a ballot box designated for curbside voting.
  - Feed each ballot **face down** through the tabulation machine.
  - **If a ballot is not accepted immediately by the tabulation machine, press the “Return” button or take the automatically returned ballot and place it face down on the table,**

and continue processing the other ballots. Once complete, contact the Poll Supervisor to finalize the unaccepted ballots.

- **Do not simply place the ballots in the ballot transfer box** as this will cause errors with the balancing of votes to the number of voters having voted.

The Poll Supervisor shall then complete the following procedures.

- This process must be done in the presence of the Poll Supervisor, a Ballot Issuing Officer and the Tabulation Machine Officer. Scrutineers may observe this process.
- The Tabulation Machine Officer will place each ballot **FACE DOWN** into the tabulation machine so that no one can keep track of the votes being cast. The Tabulation Machine Officer does not need to put the ballots in a secrecy sleeve.
- If the tabulation machine reports an alert, for ALL alert messages:
  - **DO NOT, UNDER ANY CIRCUMSTANCES, PLACE ANY OTHER MARK OR ATTEMPT TO DARKEN A MARK ON A VOTER’S BALLOT, OTHER THAN TO INITIAL THE BIO BOX.**
  - Ensure that each ballot causing the alert is **RETURNED** for review.
  - Do not tell the tabulation machine to accept a ballot “as-is” and allow the tabulation machine to deposit the ballot into the box.
  - Place the ballot causing the alert aside in a pile, face down, to be later reviewed.
  - Continue processing the remainder of the ballots. All ballots accepted by the machine without generating an alert message will have been counted.
- For each ballot that caused an alert message, the Poll Supervisor must:
  - Examine each ballot that the tabulation machine would not accept to determine the voter’s intent from the markings on the ballot.
  - If there is no obvious problem with the marking of the ballot, attempt to re-feed the ballot into the tabulation machine.
  - If the tabulation machine again gives an alert message, respond as follows:

If the screen reads:	The tabulation machine will:	The Poll Supervisor will:
<b>AMBIGUOUS MARKS DETECTED</b>	<u>Automatically return</u> the ballot for clarification.	If the voter’s intended vote is clear, create a <u>Replacement Ballot</u> using the procedure detailed below.
<b>BIO INITIALS NOT DETECTED</b>	<u>Automatically return</u> the ballot for correction.	Complete the BIO initials and re-feed the ballot through the vote tabulation machine.
<b>MISREAD BALLOT INVALID BALLOT DETECTED</b>	<u>Automatically return</u> the ballot for correction. It cannot be accepted.	If satisfied that the ballot is one duly issued at the polling station, create a <u>Replacement Ballot</u> using the procedure detailed below.  If not so satisfied, do not prepare a replacement ballot. Write the reasons the ballot is considered “suspect” on the bottom part of the ballot, in the white space below the candidates’ names (for example, “not on proper paper”) and put the ballot in the <i>Replaced Ballots envelope</i> , so it will be available to the judge in case of a recount. Write a note in the <i>Poll Supervisor Ballot Record</i> .

<b>MULTIPLE SHEETS DETECTED</b>	<u>Automatically return</u> all of the ballots for correction. Only one ballot can be inserted at a time.	Ensure two ballots are not stuck together. <ul style="list-style-type: none"> <li>• A single marked ballot should be inserted again.</li> <li>• A second blank ballot should be treated as a “Spoiled Ballot”.</li> </ul>
<b>PAPER JAM</b>	Not count the jammed ballot, and will not accept additional ballots until the jam has been cleared. Once cleared, the vote tabulation machine will resume normal operation.	Pull the stuck ballot out of the front of the machine or lift the vote tabulation machine off the ballot box and pull the ballot from the exit slot. Press “ <b>Cleared</b> ” on the operator screen to resume normal tabulator operation.  Create a <u>Replacement Ballot</u> using the procedure detailed below, even if the ballot appears clean and flat.
<b>BLANK BALLOT DETECTED</b>	Wait for confirmation to: <ul style="list-style-type: none"> <li>• Return the ballot for correction, OR</li> <li>• Cast the ballot, registering no votes.</li> </ul>	If the voter’s clear intent was to vote for no candidates, press the “ <b>Vote</b> ” button to accept the ballot.  If not, and the voter’s intended vote is clear, create a <u>Replacement Ballot</u> using the procedure detailed below.
<b>OVERVOTE DETECTED</b>	Wait for confirmation to: <ul style="list-style-type: none"> <li>• Return the ballot for correction, OR</li> <li>• Cast the ballot, not counting the over voted sections.</li> </ul>	If the voter’s clear intent was to overvote for the contest, press the “ <b>Vote</b> ” button to accept the ballot.  If not, and if the voter’s intended vote is clear, create a <u>Replacement Ballot</u> using the procedure detailed below.
<b>SCHOOL CROSS-VOTE DETECTED</b>	Wait for confirmation to: <ul style="list-style-type: none"> <li>• Return the ballot for correction, OR</li> <li>• Cast the ballot, not counting the cross-voted contests.</li> </ul>	If the voter’s clear intent was to vote for candidates from both the English and French school districts, press the “Vote” button to accept the ballot.  If not, and if the voter’s declared school district and intended vote is clear, create a Replacement Ballot using the procedure detailed below.

- If the Poll Supervisor must create a replacement ballot, they shall, in the presence of any scrutineers present, complete the following procedures.
  - Examine the ballot that the tabulation machine would not accept, and note the ballot style number.
  - Obtain a new, clean ballot of the same ballot style number from the designated Ballot Issuing Officer.
  - For **each unaccepted ballot**, assign a unique consecutive number.
  - On the **original ballot to be replaced**, using a marker, write on the bottom part or back of each ballot:
    - 🍏 “Replaced Ballot No. \_\_\_\_”; and
    - 🍏 The alert message the tabulation machine reported when the ballot was fed originally.
    - 🍏 **Not permit, under any circumstances anyone to place any other mark or attempt to darken a mark on a voter’s original ballot.**
  - On **each corresponding replacement ballot**, using a marker, write on the bottom part or back of each ballot:
    - 🍏 “Replacement Ballot No. \_\_\_\_”.

- 🍏 Make sure to put the same number on the two ballots.
- On the replacement ballot, initial in the space for the BIO initials.
- On the replacement ballot, fill in the electoral region and polling division number as on the unaccepted ballot.
- Carefully note the votes marked on each part of the unaccepted ballot, and mark votes for the **intended** candidates on the replacement ballot.
- Check the two ballots to be sure the remarked ballot matches the voter's original intent.
  - 🍏 **The Poll Supervisor will make the final determination of voter's intent.**
  - 🍏 In the case of a "**School Cross-Vote**" alert in general elections, an elector must declare their choice of either the English or the French school district before voting, and only vote for a candidate from that school district. In the event that an elector votes for candidates from both the English and French school districts, no district education councillor votes are to be counted. If an elector votes for candidates from only one school district and has not declared a choice of school district, the elector's choice of school district shall be presumed and the vote shall be counted.
  - 🍏 Allow any scrutineers present to examine the two ballots to be sure the remarked ballot matches the voter's original vote(s).
    - Deposit the **replacement** ballot through the tabulation machine.
    - Place the **original replaced** ballot in the *Replaced Ballots envelope*.
    - Repeat these steps for each ballot the tabulation machine would not accept.

After all the ballots have been deposited into the ballot box through the tabulation machine, the Poll Supervisor shall complete the following procedures.

- Seal the *Replaced Ballots envelope* with a short yellow seal.
- The Tabulation Machine Officer and the Ballot Issuing Officer are to sign or initial the seal.
- Any scrutineers present may sign the seal.
- Place the *Replaced Ballots envelope* in the Ballot Transfer Box for that tabulation machine on top of the ballots that were removed from the ballot box at the end of the day.

The Tabulation Machine Officer shall then complete the following procedures:

- Note the number of electors that deposited ballots and inform the Poll Supervisor.
- **DO NOT CREATE A RESULTS TAPE. RESULTS MAY ONLY BE DETERMINED ON THE LAST SCHEDULED ORDINARY POLLING DAY.**
- Power down the tabulation machine and repack it into its carrying case.
- Place all cast ballots into a Ballot Transfer box.
  - Use one Ballot Transfer Box for each tabulation machine (or more as necessary).
  - Remove all ballots from the rear section of the ballot box.
  - Place these counted ballots into the Ballot Transfer box.
  - Do not fold or damage ballots.
  - All ballot styles are placed into the Ballot Transfer box together.
  - It is not required to sort the ballots so that the top or front of the ballot faces the same way, simply stack them neatly.
  - If used, place the sealed *Replaced Ballots envelope* into the Ballot Transfer box.
  - Use one long paper seal to seal the Ballot Transfer box.

- Record the polling location name and tabulation machine number on the Ballot Transfer box.
- Ensure the Ballot Transfer box is sealed and marked appropriately for the polling station.
- Carefully disassemble the ballot box.
- Bring all equipment and supplies to a location as determined by the Poll Supervisor.
- Assist other poll officials in clean-up of the location.



## CLOSE OF SPECIAL BALLOT POLL AT RETURNING OFFICE

Prior to the Sunday prior to Election Day, each **Municipal Returning Officer** shall:

- Designate at least one pair of appointed Special Voting Officers to process the ballots contained in the “Out-of-Office”, and Additional Poll ballot boxes. One Special Voting Officer will be designated to handle the ballots and the second Special Voting Officer will be designated to assist.
- Designate the time as 10:00 a.m. when the Special Voting Officers will process the ballots.

On the **Sunday prior to Election Day** at the designated time, two Special Voting Officers will be required to open the “Out-Of-Office” ballot box, and any Additional Poll ballot boxes and deposit the ballots into the “In-Office” tabulation machine ballot box through the tabulation machine.

- This process **must** be done in the presence of the Municipal Returning Officer or an Election Clerk.
- Additionally, each candidate may attend and/or send one scrutineer to witness the process. Each scrutineer must be appointed on the required form, and take the *Oath or Affirmation of Scrutineer* to ensure no vote information may be shared with anyone. Media personnel are not allowed to witness the process.
- In the interests of transparency, if no scrutineers are present at the designated time, the Municipal Returning Officer shall invite any eligible electors or any available election officers to remain to observe the process.

### Processing Special Ballots and Additional Poll Ballots

The designated Special Voting Officer shall complete the following procedures.

- Open one at a time, the “Out-of-Office” ballot box, and any Additional Poll ballot boxes. Follow the same steps detailed in these instructions for each box, until all ballots have been deposited into the “In-Office” tabulation machine ballot box.
- Unseal the ballot box.
  - Only work with one ballot box at a time;
  - Cut the paper seal along the top of the box; and
  - Open the box.
- Remove one ballot at a time from the ballot box without showing those present the voter’s marks.
- If the ballot is in a *Ballot Envelope*, carefully open the *Ballot Envelope*, remove the ballot from the envelope and discard the empty envelope.
- Satisfy himself or herself that the ballot is a duly issued ballot.
- Place each special ballot **FACE DOWN** into the tabulation machine so that no one can keep track of the votes being cast. The Special Voting Officer does not need to put the ballots in a secrecy sleeve.
- Depending on the ballot, the tabulation machine may report an alert message if it is unable to determine how to process the ballot. Because the voter is not present, this means the Special Voting Officers must ensure voter intent is preserved and counted as intended.
- If the tabulation machine reports an alert, for ALL alert messages:

- **DO NOT, UNDER ANY CIRCUMSTANCES, PLACE ANY OTHER MARK OR ATTEMPT TO DARKEN A MARK ON A VOTER'S BALLOT, OTHER THAN TO INITIAL THE BIO BOX.**
- Ensure that each ballot causing the alert is **RETURNED** for review.
- Do not tell the tabulation machine to accept a ballot "as-is" and allow the tabulation machine to deposit the ballot into the box.
- Place the ballot causing the alert aside in a pile, face down, to be later reviewed.
- Continue processing the remainder of the ballots. All ballots accepted by the machine without generating an alert message will have been counted.

**Processing Ballots Having Caused an Alert Message**

Once the Special Voting Officer has processed all of the remaining ballots in the ballot boxes, they shall process those ballots that caused an alert message by completing the following procedures.

- Be aware that the tabulation machine is unable to read:
  - Marks made by voters outside of the circles by the candidates' names; and
  - Marks made by a pencil or pen that are not dark enough or do not fill enough of the circle.
- In conjunction with the Municipal Returning Officer, interpret the ballots to ensure voter intent is preserved, except where the voter's mark is not marked in the circle by the candidate's name.
- In the case of a **"School Cross-Vote"** alert in general elections, an elector must declare their choice of either the English or the French school district before voting, and only vote for a candidate from that school district. In the event that an elector votes for candidates from both the English and French school districts, no district education councillor votes are to be counted. If an elector votes for candidates from only one school district and has not declared a choice of school district, the elector's choice of school district shall be presumed and the vote shall be counted.
- For each ballot that caused an alert message, both Special Voting Officers, in the presence of the Municipal Returning Officer or an Election Clerk and any scrutineers present, must:
  - Examine each ballot that the tabulation machine would not accept to determine the voter's intent from the markings on the ballot.
  - If there is no obvious problem with the marking of the ballot, attempt to re-feed the ballot into the tabulation machine.
  - If the tabulation machine again gives an alert message, respond as follows:

If the screen reads:	The tabulation machine will:	The Special Voting Officer will:
<b>AMBIGUOUS MARKS DETECTED</b>	<u>Automatically return</u> the ballot for clarification.	If the voter's intended vote is clear, create a <u>Replacement Ballot</u> using the procedure detailed below.
<b>BIO INITIALS NOT DETECTED</b>	<u>Automatically return</u> the ballot for correction.	Complete the BIO initials and re-feed the ballot through the vote tabulation machine.
<b>MISREAD BALLOT INVALID BALLOT DETECTED</b>	<u>Automatically return</u> the ballot for correction. It cannot be accepted.	If satisfied that the ballot is one duly issued by a Special Voting Officer, create a <u>Replacement Ballot</u> using the procedure detailed below.  If not so satisfied, do not prepare a replacement ballot. Write the reasons the ballot is considered "suspect" on the bottom part of the ballot, in the white space below the candidates' names (for example, "not on proper paper") and put the ballot in the <i>Replaced Ballots envelope</i> , so it will be available to the judge in case of a recount. Write a note in the <i>Special Ballot Poll Book</i> .
<b>MULTIPLE SHEETS DETECTED</b>	<u>Automatically return</u> all of the ballots for correction. Only one ballot can be inserted at a time.	Ensure two ballots are not stuck together. <ul style="list-style-type: none"> <li>• A single marked ballot should be inserted again.</li> <li>• A second blank ballot should be treated as a "Spoiled Ballot".</li> </ul>
<b>PAPER JAM</b>	Not count the jammed ballot, and will not accept additional ballots until the jam has been cleared. Once cleared, the vote tabulation machine will resume normal operation.	Pull the stuck ballot out of the front of the machine or lift the vote tabulation machine off the ballot box and pull the ballot from the exit slot. Press " <b>Cleared</b> " on the operator screen to resume normal tabulator operation.  Create a <u>Replacement Ballot</u> using the procedure detailed below, even if the ballot appears clean and flat.
<b>BLANK BALLOT DETECTED</b>	Wait for confirmation to: <ul style="list-style-type: none"> <li>• Return the ballot for correction, OR</li> <li>• Cast the ballot, registering no votes.</li> </ul>	If the voter's clear intent was to vote for no candidates, press the " <b>Vote</b> " button to accept the ballot.  If not, and the voter's intended vote is clear, create a <u>Replacement Ballot</u> using the procedure detailed below.
<b>OVERVOTE DETECTED</b>	Wait for confirmation to: <ul style="list-style-type: none"> <li>• Return the ballot for correction, OR</li> <li>• Cast the ballot, not counting the over voted sections.</li> </ul>	If the voter's clear intent was to overvote for the contest, press the " <b>Vote</b> " button to accept the ballot.  If not, and if the voter's intended vote is clear, create a <u>Replacement Ballot</u> using the procedure detailed below.
<b>SCHOOL CROSS-VOTE DETECTED</b>	Wait for confirmation to: <ul style="list-style-type: none"> <li>• Return the ballot for correction, OR</li> <li>• Cast the ballot, not counting the cross-voted contests.</li> </ul>	If the voter's clear intent was to vote for candidates from both the English and French school districts, press the "Vote" button to accept the ballot.  If not, and if the voter's declared school district and intended vote is clear, create a Replacement Ballot using the procedure detailed below.

## Replacement Ballots

If the Special Voting Officer must create a replacement ballot, the Special Voting Officers and Municipal Returning Officer or an Election Clerk, shall, in the presence of any scrutineers present, complete the following procedures.

- Examine the ballot that the tabulation machine would not accept and note the ballot style number.
- Obtain a new, clean ballot of the same ballot style number:
  - For ballots from the Special Voting Officer's region, take a clean ballot of the same style from his or her poll supplies; or
  - For ballots from other regions, use the Ballot on Demand system to print a clean ballot of the same style.
- For each **unaccepted ballot**, assign a unique consecutive number. Using a marker, write on the bottom part or back of each ballot:
  - "Replaced Ballot No. \_\_\_\_"; and
  - The alert message the tabulation machine reported when the ballot was fed originally.
  - **Not permit, under any circumstances anyone to place any other mark or attempt to darken a mark on a voter's original ballot.**
- On each **corresponding replacement ballot**, using a marker, write on the bottom part or back of each ballot:
  - "Replacement Ballot No. \_\_\_\_".
  - Make sure to put the same number on the two ballots.
- On the replacement ballot, initial in the space for the BIO initials.
- On the replacement ballot, fill in the electoral region and polling division number as on the unaccepted ballot.
- Carefully note the votes marked on each part of the unaccepted ballot, and mark votes for the **intended** candidates on the replacement ballot.
- Have the Municipal Returning Officer or an Election Clerk check the two ballots to be sure the remarked ballot matches the voter's original intent.
- The Municipal Returning Officer will make the final determination of voter's intent.
  - In the case of a **"School Cross-Vote" alert in general elections**, an elector must declare their choice of either the English or the French school district before voting, and only vote for a candidate from that school district. In the event that an elector votes for candidates from both the English and French school districts, no district education councillor votes are to be counted. If an elector votes for candidates from only one school district and has not declared a choice of school district, the elector's choice of school district shall be presumed and the vote shall be counted.
- Allow any scrutineers present to examine the two ballots to be sure the remarked ballot matches the voter's original vote(s).
- Deposit the **replacement** ballot through the tabulation machine.
- Place the **original replaced** ballot in the *Replaced Ballots envelope*.
- Repeat these steps for each ballot the tabulation machine would not accept immediately.

### Finalizing Procedure

After all the ballots from the “Out-of-Office” ballot box, and all Additional Poll ballot boxes have been deposited into the “In-Office” tabulation machine ballot box through the tabulation machine, the Special Voting Officer shall complete the following procedures.

- Seal the *Replaced Ballots envelope* with a short yellow seal.
- Have both Special Voting Officers sign or initial the seal.
- Permit any scrutineer present to sign or initial the seal who wishes to do.
- Keep the *Replaced Ballots envelope* secure until the end of Election Day.
- Collapse all empty Additional Poll ballot boxes.
- If the Auxiliary compartment of the “In-Office” tabulation machine ballot box was opened to process ballots, close and seal the box opening with seals.
- Show the empty “Out-of-Office” ballot box to the Municipal Returning Officer or an Election Clerk and any scrutineers present before closing the box.
- Reseal the “Out-of-Office” ballot box.
- Understand electors may continue to vote using the “In-Office” tabulation machine ballot box or “Out-of-Office” ballot box until 8:00 pm on Election Day.

### Procedure to Close the Special Ballot Poll

Prior to Election Day, each Municipal Returning Officer shall complete the following procedures.

- Designate one pair of appointed Special Voting Officers to process the ballots contained in the “Out-of-Office”, “In-Office”, and any remaining Additional Poll ballot boxes. One Special Voting Officer will be designated to handle the ballots and the second Special Voting Officer will be designated to assist.
- Contact each candidate and invite each candidate and/or a scrutineer to observe the process at the returning office after 8:00 pm on Election Day.

At 8:00 p.m. on Election Day, the Municipal Returning Officer will declare the special ballot poll closed. The Municipal Returning Officer will have an election officer note the last elector standing in the line and advise all electors in line at 8:00 pm that they are still entitled to vote. **All special ballots must be physically deposited into a ballot box prior to this time, except for the ballots of those eligible electors who are standing in the line waiting to vote in person at the returning office at 8:00 p.m.**

After the Municipal Returning Officer declares the special ballot poll closed and all electors standing in line have voted, the designated Special Voting Officer shall complete the following procedures.

- Invite any scrutineers present who wish to observe the unsealing of any remaining Additional Poll ballot boxes, the “Out-of-Office” ballot box and the “In-Office” tabulation machine ballot box.
- In the interests of transparency, if no scrutineers are present, invite any eligible electors or any free election officers to remain to observe the process.
- Open, one at a time, any Additional Poll ballot boxes and the “Out-of-Office” ballot box remaining after Sunday’s processing of the ballots. It is possible that votes have been collected throughout Election Day.

- Follow the same steps detailed in the section **Processing Special Ballots and Additional Poll Ballots**, tabulating ballots from each ballot box, until all ballots have been deposited into the “In-Office” tabulation machine ballot box.
- If required, follow the required steps as necessary to respond to alert messages and create replacement ballots.

Once **all ballots** have been deposited into the “In-Office” tabulation machine ballot box through the tabulation machine, the designated Special Voting Officer shall complete the following procedures.

- Prepare one or more new Ballot Transfer Boxes.
- Fill in the appropriate information on the box, marking them as Special and Additional Poll ballots and date the box.
- Record the “returning office” as the polling station.
- If one was used after 8 p.m., seal the *Replaced Ballots envelope* with a short yellow seal and place the *Replaced Ballots envelope* into the Ballot Transfer box. Include the sealed *Replaced Ballots envelope* from Sunday’s processing.
- Note the total number of ballots that have been deposited through the machine and record this in the “In-Office” special ballot poll book.
- **DO NOT CREATE A RESULTS TAPE. RESULTS MAY ONLY BE DETERMINED ON THE LAST SCHEDULED ORDINARY POLLING DAY.**
- Unplug the power cord to power down the tabulation machine.
- Unplug the power cord to power down the colour printer.
- Unseal the top flap of the “In-Office” tabulation machine ballot box and remove the tabulation machine.
- Place all the cast ballots from the “In-Office” tabulation machine ballot box into Ballot Transfer Box(es):
  - Remove all ballots from the rear section of the ballot box.
  - Do not fold or damage the ballots.
  - Place these counted ballots into the Ballot Transfer box(es).
  - All ballot styles are placed into the Ballot Transfer Box(es) together.
  - It is not required to sort the ballots so that the top or front of the ballot faces the same way, simply stack them neatly.
  - If used, place the sealed *Replaced Ballots envelope(s)* into the same Ballot Transfer box.
  - Use one long paper seal to seal the Ballot Transfer box.
  - Both Special Voting Officers are to sign or initial the seal.
  - Any scrutineer present may also sign or initial the seal.
- Show the empty “In-Office” special ballot box to the Municipal Returning Officer or an Election Clerk and any scrutineers present.
- Repack the tabulation machine into its carrying case.
- Complete all other poll records and pack up the remaining poll materials.

## CLOSE OF ADVANCE, ORDINARY AND SPECIAL BALLOT POLLS AT ELECTIONS NB

### Receipt of tabulation machines and ballot transfer boxes

Upon receipt of the tabulation machines and ballot transfer boxes returned by each Municipal Returning Officer, all seals on the boxes used for shipping will be confirmed as being intact by Elections NB warehouse staff. A log of all received tabulation machines and ballot transfer boxes and the status of their respective seals shall be maintained.

Tabulation machine cases shall be opened and the seals on the tabulation machine shall be inspected to ensure they are present and intact. This inspection shall be recorded in the log. Once confirmed, the cases shall be reclosed and stored securely, by region, until the last scheduled ordinary polling day.

All ballot transfer boxes shall remain sealed at all times and be stored securely by region.

### Public notice of live stream

At least 7 days prior to the last scheduled ordinary polling day, the Municipal Electoral Officer shall provide notice to the public and to all candidates of how and when a live stream of processes to tabulate and record votes may be viewed on the internet.

### Tabulation and Recording of Votes

On the last scheduled ordinary polling day, to tabulate and record the votes cast, Elections NB officials shall complete the following procedures for one municipal electoral region at a time.

Based upon the table space available, tabulation machine shall be removed from their cases, be laid out on a table, and attach the power connection.

The tabulation machine officer shall:

- Place the Security Key on the Security Key Pad. Once the key has been accepted, the machine will continue to boot up.
- Confirm the correct time and date.
- Press "Open Poll" to open the poll on the tabulation machine.
  - The machine will report that "Results are not zero".
  - Press the 'Confirm' button on the screen.
  - The tabulation machine will automatically print a status report showing the number of ballots that have been deposited in the tabulation machine.
  - Once the status report has been printed, the tabulation machine will ask if additional copies are required. Press the "NO" button on the operator screen.
  - Sign the Certification as indicated on the bottom of the report printed on the tape.
- Place the Security Key on the Security Key Pad.
  - At the 'Administrative Menu' (on the screen), press 'Close Poll'.
  - Enter the password to close the poll, then press "Enter".
  - The tabulation machine will confirm if the poll is to be closed.
  - ONCE THE POLL IS CLOSED, NO MORE BALLOTS WILL BE ABLE TO BE TABULATED.
- Print one copy of the results report.
  - Do not disclose any results printed on the results report to any person present.

- Sign the Certification as indicated on the bottom of the results report printed on the tape.
- Detach the entire tape from the tabulation machine.
- Place the results report tape in the C 03 602, *Tabulation Machine Result Tape and/or Memory Cards*, and label it with the tabulation machine's information
- Power down the tabulation machine by unplugging it.
- Remove the seals from the memory card door covers in the tabulation machine.
- Remove the memory cards from the tabulation machine and place them in the C 03 602, *Tabulation Machine Result Tape and/or Memory Cards* envelope.
- Advise the runner to collect the C 03 602, *Tabulation Machine Result Tape and/or Memory Cards* envelope.
- Permit warehouse staff to repack the tabulation machine into its case, and return it to storage.

The runner shall:

- Collect each C 03 602, *Tabulation Machine Result Tape and/or Memory Cards* envelope and bring it to the computer operator.

The computer operator shall:

- Maintain a log of each received memory card and result report from each tabulation machine.
- Use the Results Transfer Manager software to upload the result files from each memory card to the reporting server.
- Please note that no results are displayed onscreen during this process.
- After the memory card result information has been uploaded, maintain a log of its completion.
- Return the memory cards to the C 03 602, *Tabulation Result Tape and/or Machine Memory Cards* envelope, seal the envelope, and place the envelope into secure storage.

After the poll has been closed on all tabulation machines, and all results files have been uploaded:

- The live stream to the internet shall be terminated.
- No results will be reported to the public until after 8:00 p.m., when the remainder of the results are reported from the portion(s) of the province that were previously in lockdown.