

First Nations Elections - Comparison

Chart: *Indian Act* Election System vs. system under the *First Nations Elections Act*

	<i>Indian Act</i>	<i>First Nations Elections Act</i>
Opting In	Opting in is at the discretion of the Minister of Aboriginal Affairs and Northern Development should he or she "deem it advisable for the good government of the band".	<p>A First Nation council can request to come under the First Nations Elections Act by adopting a band council resolution;</p> <p>or</p> <p>The Minister may bring the First Nation under the First Nations Elections Act if a protracted leadership dispute in a First Nation has significantly compromised the governance of that First Nation; or if the Governor in Council has set aside an election of the First Nation under section 79 of the <i>Indian Act</i> because there was corrupt practice in connection with an election.</p>
Term of office	2 years	4 years
Common election day for groups of First Nations	No provision	Six or more First Nations can coordinate their terms of office and hold their elections on a common day.
Composition of Council	One chief and one councillor for every 100 members of the First Nation (minimum of two and	One chief and one councillor for every 100 members of the First Nation (minimum of two and

	<p>maximum of 12 councillors)</p> <p>The Minister can authorize a First Nation to deviate from the number of councillors that would otherwise be mandated by this rule.</p>	<p>maximum of 12 councillors)</p> <p>The council can decide by resolution to reduce the number of councillor positions.</p>
Electoral Officers	<p>The electoral officer is appointed by the First Nation council with the approval of the Minister.</p>	<p>Electoral officers must be certified through a training program approved by the Minister. The electoral officer is appointed by the First Nation council and the Minister's approval of the appointment is no longer required. The Minister appoints an electoral officer only when the band council cannot form quorum to make binding decisions.</p>
Election Period	<p>Minimum of 79 days</p>	<p>Minimum of 65 days</p>
Qualifications to nominate, and be, a candidates for Chief and Councillor	<p>Only candidates nominated for councillor positions must be a member of the First Nation and be at least 18 years of age on the day of the nomination meeting.</p>	<p>Candidates nominated for any position must be a member of the First Nation and be at least 18 years of age on the day of the nomination meeting.</p>
Rules and procedures for the nomination of candidates	<p>An elector can nominate a candidate in writing prior to the nomination meeting or orally at the meeting.</p>	<p>An elector can nominate a candidate in writing prior to the nomination meeting or orally at the meeting.</p> <p>A person can be a candidate for only one position for the same election.</p> <p>A person cannot nominate more candidates than there are positions to be filled at the election.</p>

		A First Nation may choose to impose a fee of up to \$250 on each candidate to be refunded if the candidate receives more than 5 per cent of the total votes cast.
Candidate acceptance	Persons nominated automatically become candidates and their names are placed on the ballot unless they withdraw in writing.	Persons nominated must submit a written declaration and acceptance of nomination, and if applicable, the candidacy fee, or their name will not appear on the ballot.
Qualifications to vote	To be eligible to vote, a person must be a member of the First Nation and be at least 18 years of age on election day.	To be eligible to vote, a person must be a member of the First Nation and be at least 18 years of age on election day.
Mail-in ballots	<p>The electoral officer sends a mail-in ballot to all off-reserve electors whose addresses appear on the list provided by the First Nation.</p> <p>The electoral officer will also respond to specific requests for a mail-in ballot and can do so until polling day.</p>	Electors wishing to vote by mail-in ballot must provide a written request to the electoral officer along with a photocopy of an identification document. The electoral officer will send mail-in ballot packages to all those electors whose request is received on or before the 6th day before the election. After this time, no mail-in ballots will be given out and the elector will have to vote in person either at an advance poll or at the polling station on election day.
Advance Polls	No provision	The electoral officer may hold advance polls between the 10th and 5th days before the election, on and off reserve.

<p>Recount</p>	<p>No provision</p>	<p>If the margin of votes between a winning candidate and one or more runners-up is five or fewer, the electoral officer must recount the ballots for these candidates.</p>
<p>Offences and Penalties</p>	<p>None</p>	<p>Prohibits corrupt activities surrounding the electoral process such as offering and accepting bribes, purchasing and selling mail-in ballots, obstructing the electoral process and breaching the secrecy of the vote.</p> <p>Persons who breach these prohibitions are guilty of an offence that is punishable by fines and up to five years in prison.</p> <p>Elected officials convicted of any of these offences are removed from office and candidates convicted of certain offences are not eligible to run again for five years.</p> <p>The offence and penalty provisions are very similar to those found in the <i>Canada Elections Act</i>.</p>
<p>Removal from Office</p>	<p>A person ceases to hold office when they die, resign or are convicted of an indictable offence.</p> <p>or</p> <p>When the Minister removes them for having committed corrupt practices in connection with an election or for having missed three</p>	<p>A person ceases to hold office when they die, resign or are convicted of an indictable offence – however, the conviction must be accompanied by a prison sentence greater than 30 consecutive days for the person to lose their position.</p>

	consecutive meetings of the council without authorization	No ministerial powers to remove elected officials.
Appeals	Directed to the Minister who may conduct an investigation and report findings to the Governor in Council. The Governor in Council may set aside the election on the report of the Minister	Directed to provincial or federal courts, which can, after hearing the particulars, set aside an election.
Opting Out	No provisions (removal from the <i>Indian Act</i> election system is guided by the Department's <i>Conversion to Community Election System Policy</i>)	The First Nation must develop a community election code which must be approved by the majority of votes cast at a secret ballot vote in which at least 50 per cent of all the electors of the First Nation participate.