



Conversion to Community Election System Policy

The following criteria shall be utilized by the department for the purpose of determining that an order pursuant to section 74 of the *Indian Act* be repealed so that a First Nation may conduct its elections under its own community election system (custom).

1. Where a First Nation wishes to have a section 74 order repealed, the department must ensure that the First Nation has a system in place which is supported by the First Nation's electorate and which protects the rights of the individual First Nation members.
2. Proposals to repeal the application of an order made pursuant to section 74 of the *Indian Act* and convert to a community election system will be considered if the proposed community election code:
 - a. is in a clear written format;
 - b. includes a provision for the settlement of election appeals without involving the department, and for amendments to the code that includes membership concurrence;
 - c. follows the basic principles of natural justice, which are:
 - fairness;
 - impartiality;
 - objective review of all facts and circumstances; and
 - the opportunity of each party to adequately state their case, and includes the right to receive notice, the right to know the case against them and the right to be represented.
 - d. is consistent with the *Charter of Rights and Freedoms*, which, among other points, includes:
 - voting rights to off-reserve members;
 - a realistic mechanism by which off-reserve electors can participate in the electoral process (e.g., (for example), mail-in ballots); and
 - the opportunity for off-reserve electors to hold positions on the band council;
 - e. has been reviewed by the department and found to be satisfactory; and
 - f. has received the support of the community.
3. The election code will be considered approved by the community if:
 1. a majority of electors (50 percent + 1) vote by secret ballot to approve it; or
 2. the community approves it in such other manner as the First Nation and the department may agree upon.
4. For the purpose of this policy, an elector is every person who is a Band member, and who is at least 18 years of age.
5. The Band will take steps to provide electors with reasonable notice of:
 - a. their right to participate in the approval process and the manner in which that right can be exercised; and
 - b. the content of the election code.
6. Following the community ratification vote on the election code, all supporting documents are to be sent to the Regional Director General who will forward them, along with a recommendation, to headquarters for the consideration of the Minister or his delegate. Supporting documents shall consist of the following:

- a. a final copy of the community election code;
- b. a band council resolution passed at a duly convened meeting of the Chief and Council asking the Minister to repeal the order made pursuant to section 74 of the *Indian Act* so that the First Nation can conduct its election under the community election system that was approved by the community;
- c. a copy of the master voters list used by the electoral officer during the ratification process, on which appears the name of all eligible electors of the band (defined at section 4 of this policy), as well as a copy of the ballot; and
- d. the affidavit of the person charged with overseeing the process, setting out in detail the steps that were followed, including the steps taken to inform the electors of the implications of conversion to a community election system, of the content of the code, their right to vote, the voting procedures, and the results of the voting.

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