

BC ASSEMBLY OF FIRST NATIONS ELECTIONS POLICY AND PROCEDURE¹

RATIONALE: This policy will provide an open and fair election process to ensure full participation of British Columbia First Nations in the election of the Regional Chief and the BCAFN Board of Directors.

APPOINTMENT OF ELECTORAL OFFICER

The BCAFN shall have an Electoral Officer who will oversee the nomination and election process at annual meetings.

The Electoral Officer shall be designated by the Board of Directors and be accountable to all members of the BCAFN. In the event five members of the BCAFN register a complaint in writing with the Secretary about the Board's selection for Electoral Officer, the Board's selection shall not stand and the BCAFN auditors will serve as Electoral Officer instead.

Once in office, the Electoral Officer must conduct him or herself honestly and with integrity, complying with the requirements of the *Society Act*, the Constitution and Bylaws, the policies and procedures, and in light of principles of natural justice and procedural fairness.

The Electoral Officer is responsible for:

- a) preparing nomination forms and receiving nominations of candidates for the Office of the Regional Chief;
- b) determining the eligibility of candidates in accordance with the *Society Act*, the Constitution and Bylaws, and the Governance Manual;
- c) in consultation with the Secretary, preparing the voter list;
- d) furnishing the voter list to the scrutineers at least fourteen days before the election and securing each scrutineer's written acknowledgement that the voter list is complete in advance of the election;
- e) subject to direction from the Board of Directors, setting the form of the ballot;
- f) making all administrative arrangements in connection with the election and any subsequent by-elections including fixing the number and location of polling stations and the preparing and posting notices;
- g) ensuring any proxy appointments received by the Regional Chief are properly documented and noted on the voter list;
- h) resolving any disputes about voter eligibility on the day of the election;
- i) ensuring every person eligible to vote as a reasonable opportunity to do so;
- j) ensuring that a separate vote is conducted for each position or issue on the ballot in accordance with the Constitution and Bylaws as well as this policy;
- k) supervising the tally of all votes;
- l) determining the status of spoiled or irregularly marked ballots;

¹ Excerpt from pp. 28-32 of BCAFN Governance Manual, which contains all BCAFN election policies and procedures for the election of Directors and the Regional Chief.

- m) securing the voter list, ballots, and ballot boxes;
- n) giving such directions or instructions as the Electoral Officer thinks necessary for the proper conduct of the vote;
- o) promptly announcing the election results to the Assembly; and
- p) providing a final electoral report to the Secretary after the election.

Where the Electoral Officer is unable or unwilling to perform his or her responsibilities for whatever reason, he or she must immediately notify the Board of Directors. Should the issue not be resolved among the membership within a reasonable period of time, any member may seek direction on electoral matters from the British Columbia Supreme Court.

NOMINATION PROCEDURE

A candidate for the position of Regional Chief or a seat on the Board of Directors shall be nominated by five members of the BCAFN (including the First Nation the candidate represents).

Nominations must be sent to the Electoral Officer at least thirty days prior to the election date (the Campaign Period) and must be accompanied by a one page profile of the nominee. The candidate must accept the nomination by signing the nomination form. The nomination form will include a place for the candidate to appoint his or her scrutineer and any such appointment must be made at the time the nomination is filed with the Electoral Officer.

Employees of the BCAFN are not eligible to become directors. Candidates for a seat on the Board of Directors must be 19 years of age or greater, of First Nations ancestry from British Columbia and be an elected Chief or representative of a First Nation. If at any time during his or her term of office, a director no longer is an elected Chief or representative of a First Nation, the director shall resign from office forthwith.

In accepting a nomination, candidates should be aware that Board members, including the Regional Chief, are expected to contribute time, experience, and effort for the betterment of the BCAFN. The amount of time and level of skill required of directors is high.

The campaign period for the office of Regional Chief shall commence on the date that is thirty calendar days prior to the date set for the election and shall end at midnight on the date of the election.

VOTING

Each member shall have one vote, which may only be exercised by their representative as set out on the Membership List or duly registered proxy.

The vote shall be by secret ballot. Once a First Nation's membership has been confirmed against the Membership List and the representative's identification verified by voting registration clerks appointed by the Electoral Officer, the representative or proxy carrying that member's vote will sign next to his or her name on the voter list and the representative will be given a ballot.

After receiving a ballot or ballots , the voter must, in the polling booth or space provided, mark it with an “X” in the square provided opposite to the name or question for which he or she desires to vote, fold the ballot, and, in the presence of the Electoral Officer and scrutineers deposit the ballot in a secure ballot box.

Ballots that are not marked or have on them writing or a mark other than “X” must be declared spoiled and not counted, except where the voter has by some other mark, in the opinion of the Electoral Officer, clearly indicated an intention, in which case the Electoral Officer, whose decision shall be final, may declare the ballot not spoiled and count it accordingly.

No person other than the voter, for the time that it takes to vote, is permitted in the polling booth or allocated space for voting.

When a ballot box is full it must be sealed by the Electoral Officer and once sealed, the seal can only be broken by the Electoral Officer in the presence of at least two scrutineers. The Electoral Officer will secure full ballot boxes in a locked room or secured location. No person shall be allowed access to the locked room or secured location or to inspect the ballot boxes without the presence of the Electoral Officer and at least two scrutineers.

COUNTING THE VOTES

When voting is completed, full ballot boxes will be removed from their secure location one by one, their seals checked by the Electoral Officer, and the boxes will be opened in the presence of at least two scrutineers and as many candidates as wish to be present.

Ballots will be counted at the polling stations where the votes are cast. In all circumstances, ballots will be counted in the presence of the Electoral Officer and at least two scrutineers.

In the event there is a dispute as to the validity of a ballot, the Electoral Officer shall make a determination and count or not count the ballot accordingly. Any disputed ballots so counted shall be segregated and placed in a separate box or envelope so they will be available for counting in the event of a subsequent challenge to the election.

The number of “disputed” ballots will be counted, and the number of such ballots recorded prior to sealing the box or envelope in which such disputed ballots shall be placed.

The Electoral Officer will confirm the final count of ballots, and then in the presence of at least two scrutineers, The Electoral Officer will then place all ballots, including any disallowed ballots into a ballot box and then seal the ballot box.

The Electoral Officer will make a written record of the results of the election, sign it, and provide it to the Secretary for inclusion in the minutes of the meeting.

Immediately following the election, all membership records, including membership lists, as well as all elections records, including voter lists, used and unused ballots, and all tally sheets will be placed in boxes, sealed, and delivered to the BCAFN head office at Suite 605 – 100 Park Royal

South, West Vancouver, where they shall remain for 30 days after the election or such longer period as a court of competent jurisdiction may order. The membership and election records, including the ballots used in the election, may be unsealed and counted or inspected only in the presence of counsel for the BCAFN and counsel for each candidate (if counsel is appointed).

No one may bring a challenge to the electoral results more than 30 days after the election.

PROXIES

A member may be represented by proxy where its representative gives written notice by way of the Proxy Form or by letter on First Nation or Band letterhead of his or her proxy to the Regional Chief prior to the commencement of the meeting.

A representative may carry a proxy for another representative but no one person may carry more than one proxy. That is, there shall be no proxies of proxies. In the event of a dispute regarding a proxy, Electoral Officer shall make a binding determination.

SCRUTINEERS

Each candidate may appoint one scrutineer who is entitled to be present during voting and the counting of ballots. The candidate appoints his or her scrutineer at the same time he or she accepts the nomination.

The scrutineers are required to:

- a) approve the voter list circulated by the Electoral Office in writing and in advance of the opening of the poll;
- b) contest the right of a person to vote if there is a valid reason for doing so and call on the Electoral Officer in the event of dispute over voter eligibility;
- c) to verify the identity of each prospective voter and faithfully mark on a duplicate Voters List to whom a ballot is given;
- d) deliver any used duplicate Voters List in his or her possession at the close of the polls to the Electoral Officer;
- e) scrutinize the counting the ballots by the Electoral Officer; and
- f) sign the return of the poll.

ELECTING THE REGIONAL CHIEF: FIFTY PERCENT PLUS ONE

The winning candidate in an election for Regional Chief must have at least 50 percent plus 1 of the votes validly cast in the election.

If there is only one candidate for Regional Chief, he or she will win by acclamation.

If there are more than two candidates and none of the candidates attains fifty percent plus 1 of the votes validly cast on the first ballot, further ballots shall be held until one of the candidates

attains the necessary number of votes. On each successive ballot, the name of the candidate with fewest votes will be removed.

In the event of a tie between the last two candidates after the ballot, another ballot shall be held. In the unlikely event there is still a tie between the last two candidates after the tie-breaking ballot is counted, the Electoral Officer shall cast the deciding vote by flipping a coin.

Any candidate for Regional Chief may withdraw from the election at any time by advising the Electoral Officer of his or her withdrawal in writing.

The term of office for the Regional Chief position is three years. Except as provided below, where the incumbent Regional Chief is unable to complete his/her term of office the Board of Directors shall direct the Electoral Officer to hold a by-election to elect a successor. The Electoral Officer shall open the nomination process and conduct the by-election forthwith. The winner of the by-election shall complete the balance of the Regional Chief's term of office.

Where the incumbent Regional Chief is unable to complete his/her term of office and there is less than six months remaining on the incumbent Regional Chief's term of office, the Board of Directors may direct the Electoral Officer to hold a regular election to elect a successor. In addition to serving his or her three year term of office, the successor so elected shall also complete the balance of the incumbent Regional Chief's term of office.

Readers are encouraged to review Article V on "Directors" and the "Regional Chief" in the Bylaws for further information.

ELECTING DIRECTORS

The five seats on the Board of Directors are designed to be filled in staggered three-year terms so that there is always some overlap in terms and institutional knowledge on the Board.

If there are insufficient candidates to hold competitive elections, the candidates attain office by acclamation. If there are more candidates than seats on the board open at any given election, an election by secret ballot will be held. For example, if there are five candidates and three seats open on the Board, those candidates who receive the first, second, and third most votes are elected into office.

Readers are encouraged to review Article V of the Bylaws on "Directors" for further information.

CONDUCT OF INCUMBENT REGIONAL CHIEF AND BOARD OF DIRECTORS DURING ELECTIONS

The purpose of this policy is to maintain the impartiality and credibility of the BCAFN during BCAFN and other elections, ensure fairness to all candidates and to ensure that BCAFN resources are not used to advance the interests of any candidate.

An incumbent Regional Chief is eligible for re-election and there are no provisions in the

Constitution, bylaws or any BCAFN policies that require the incumbent Regional Chief to resign from office in order to seek re-election. Nor is an incumbent Regional Chief required to resign from office to seek election to any other political office.

However, where an incumbent Regional Chief wishes to seek re-election to the office of Regional Chief or to seek election to any other political office, he or she must take a leave of absence from his or her position as Regional Chief throughout the official campaign period. For the purposes of this section of the policy, the official campaign period for re-election to the office of Regional Chief or election to any other political office commences on the date on which the incumbent Regional Chief files his or her nomination papers for election or re-election with the relevant electoral officer and ends at midnight on the date on which the election is held.

During the official campaign period, the incumbent Regional Chief must also relinquish all of his or her administrative and financial authority over the BCAFN and any of its operations. The Board of Directors will then choose from among their members, one or more Directors to exercise administrative and financial authority over the BCAFN and its operations during the incumbent Regional Chief's leave of absence.

Where the Board of Directors deems it necessary or advisable, at any time during the official campaign period the Board of Directors may ask the incumbent Regional Chief to serve as the official spokesperson for the BCAFN or conduct BCAFN business. Where the incumbent Regional Chief has been asked by the Board of Directors to serve as an official spokesperson or conduct BCAFN business during the official campaign period, the incumbent Regional Chief will do so in accordance with any guidance or direction provided by the Board of Directors.

Unless conducting authorized BCAFN business further to requests made by the Board of Directors, the incumbent Regional Chief shall not use any BCAFN property or resources during the official campaign period. Nor may member of the Board of Directors use any BCAFN property or resources to support any candidate for the office of BCAFN Regional Chief or any other political office. For the purpose of this section of the policy, BCAFN property and resources includes, but is not limited to financial resources, human resources, office facilities, equipment, supplies and constituency information.

The activities of the incumbent Regional Chief will be carefully monitored by the Board of Directors and Executive Director/Chief of Staff throughout the official campaign period to ensure compliance with this policy.