



WE NEED YOUR COMMENTS

The Mississaugas of the Credit Council is considering whether to opt into the First Nations Elections Act. Currently Band Council Elections are held pursuant to the *Indian Act* Elections & Voting Regulations.

For several years past Council's have been reviewing the Indian Act Election & Voting Regulations with the purpose of developing a MNCFN Election & Voting Regulation. However, Indian and Indigenous Affairs Canada and several First Nations from across the country have developed a new First Nations Elections Act (FNEA), which appears to address many of the outstanding issues First Nations face under the Indian Act Election & Voting Regulations.

The Mississaugas of the Credit Council now wish to hear from you. Please take the time to review the comparison chart and contact the Lands, Research & Membership Office to voice your comments/concerns, likes/dislikes.

A final report outlining your comments, will be presented to Council in late May 2017. It is expected Council will make a decision on the matter sometime in June 2017.

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COMPARISON CHART FOR FIRST NATIONS ELECTIONS

	INDIAN ACT	FIRST NATIONS ELECTION ACT
Opting In	At discretion of Minister of INAC should he/she “deem it advisable for the good gov’t of the Band”	A FN Council can request to come under FNEA by adopting a BCR OR Minister may bring FN under FNEA if a protracted leadership dispute in a FN has significantly compromised the gov’t of that FN; or if Governor-In-Council (G-I-C) has set aside an election of the FN under Sec. 79 of <i>Indian Act</i> because there was corrupt practice in connection with an election
Term of Office	2	4
Common election day for groups of FN	No provision	Six or more First Nations can coordinate their terms of office & hold their elections on a common day
Composition of Council	1 Chief & 1 Councillor for every 100 FN members. (Minimum of 2 & maximum of 12 Councillors)	1 Chief & 1 Councillor for every 100 FN members. (Minimum of 2 & maximum of 12 Councillors). Council can decide by BCR to reduce number of Councillor
Electoral Officers	EO is appointed by FN Council with approval of Minister	EO’s must be certified thru a training program approved by the Minister. EO is appointed by FN Council & the Minister’s approval no longer required. Minister will appoint EO only when Band Council cannot form quorum to make binding decisions
Election Period	Minimum of 79 days	Minimum of 65 days
Qualifications to nominate, & be candidate for Chief & Councillor	Only candidates nominated for Councillor positions must be a member of the FN & be at least 18 yrs. of age on the day of the nomination meeting	Candidates nominated for any position must be a member of the FN and be at least 18 yrs. of age on day of nomination meeting
Rules & Procedures for nomination of	An elector can nominate a candidate in writing prior to the nomination meeting or orally at the meeting	An Elector can nominate a candidate in writing prior to nomination meeting or orally at the meeting. A person can be a candidate for only 1 position A person cannot nominate more candidates than there are positions to be filled at election

candidates		A FN may choose to impose a fee of up to \$250 on each candidate to be refunded if the candidate receives more than 5% of the total votes cast.
Candidate acceptance	Persons nominated automatically become candidates & their names are placed on ballot unless they withdraw in writing	Persons nominated must submit a written declaration & 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 FN & be at least 18 yrs. Of age on election day	To be eligible to vote, a person must be a member of the FN and be at least 18 yrs of age on election day.
Mail-in ballots	EO sends a mail-in-ballot to all off reserve electors whose addresses appear on the list provided by FN	Electors wishing to vote by mail-in ballot must provide a written request to the EO along with a copy of ID. EO will send mail-in ballot packages to all electors whose request is received on or before the 6 th day before the election. After this time, no mail-in ballots will be given out & 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	EO may hold advance polls between the 10 th & 5 th days before the election, on and off reserve.
Proxy Vote	No provision	No provision
Recount	No provision. E.O. currently draws from hat if a tie takes place.	If the margin of votes between a winning candidate and one or more runners-up is 5 or fewer, the EO must recount the ballots for these candidates.
Offences & Penalties	None	Prohibits corrupt activities surrounding the electoral process such as offering & accepting bribes, purchasing & selling mail-in ballots, obstructing the electoral process and breaching the secrecy of the vote. Persons who breach these prohibitions are guilty of an offence that that is punishable by fines & up to 5 yrs in prison Elected officials convicted of any of these offences are removed from office & candidates convicted of certain offences are not eligible to run again for 5 years The offence & penalty provisions are very similar to those found in the Canada Elections Act .
Removal from	A person ceases to hold office when they die, resign or are convicted	A person ceases to hold office when they die, resign or are convicted of an indictable offence – however, the

Office	<p>of an indictable offence.</p> <p style="text-align: center;">OR</p> <p>When Minister removes them for having committed corrupt practices in connection with an election or for having missed 3 consecutive meetings of the Council without authorization.</p>	<p>conviction must be accompanied by a prison sentence greater than 30 consecutive days for the person to lose their position.</p> <p>No ministerial powers to remove elected officials</p>
Appeals	<p>Directed to Minister who may conduct an investigation and report findings to G-I-C. The G-I-C may set aside the election on the report of the Minister</p>	<p>Directed to provincial or federal courts, which can, after hearing the particulars, set aside an election.</p> <p><i>Q: Are courts aware of this? (MS)</i></p>
Opting Out	<p>No provisions</p> <p>(Removal from the Indian Act election system is guided by the Dept's <i>Conversion to Community Election System Policy</i>)</p>	<p>The FN 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% of the electors of the FN participate.</p>