

Directive on Accessibility Exemptions when Selecting a Suitable Polling Place

Last updated: February 13, 2024

Overview

For the delivery of an election, returning officers (RO) are responsible for selecting suitable polling places for advance and ordinary polls. Many considerations factor into this selection process, including the legal requirement that polling places be accessible to electors with a disability. However, for a variety of reasons, this may not always be possible. The *Canada Elections Act* (the Act) requires that the Chief Electoral Officer (CEO) approves any inaccessible polling places. While the Act sets out the requirement for accessibility, it does not prescribe how RO should assess accessibility. The Act also does not expand on what information the Chief Electoral Officer should consider when approving the use of an inaccessible polling place.

This directive clarifies the steps that ROs must follow before seeking the approval of the CEO to use inaccessible polling places for advance or ordinary polling days, and it outlines information that the CEO may consider when making a decision regarding inaccessible polling places.

1. Effective date

This directive was approved by the Chief Electoral Officer (CEO) on February 13, 2024, and takes effect on March 22, 2024.

2. Application

This directive applies to the selection of polling places where electors cast a ballot in person on ordinary and advance polling days.

This directive does not apply to:

- Special ballot services at external service points (ESP), hospitals, correctional institutions, bases of the Canadian Armed Forces and through home visits.
- RO and additional assistant returning officer (AARO) offices.
- Long-term care facilities.

While not in the scope of this directive, RO and AARO offices and ESPs remain subject to an accessibility evaluation and must comply with Elections Canada's [Accessibility Policy and Service Offering](#). These offices must be accessible.

This directive aligns with the *Policy on Standard In-Person Voting Services*.

3. Objective

This directive explains how the RO meets their obligations under the Act to select polling places that are accessible and suitable. It also explains what the CEO, using his discretion under the Act, considers when choosing to approve an inaccessible polling place when a suitable accessible polling location is not available.

4. Context

The CEO recognizes the importance of making voting easily accessible, and Elections Canada aims to ensure that every elector can cast a ballot. The electoral process should be inclusive and meet the needs of Canadians to ensure they can exercise their democratic right to vote, without encountering unnecessary barriers. Making the electoral process accessible includes using buildings that are suitable; meaning that they are available during the legally mandated polling times, they have the capacity to accommodate poll workers, electors, candidates, candidate representatives and necessary equipment, and they are located at a reasonable distance from electors' places of residence.

When selecting a polling place, Elections Canada must comply with federal law on accessibility for electors with a disability.

The Act also provides specific requirements for polling places:

- Section 6 of the Act states that all electors are entitled to be on the list of electors for the polling division where they are an ordinary resident, and to vote at the polling station for that polling division.
- Subsection 121(1) of the Act stipulates that polling stations shall be in premises that are accessible to electors with a disability.
- Subsection 121(2) of the Act states that if the RO is unable to secure suitable premises for polling stations that are accessible to electors with a disability, the RO may, with the prior approval of the CEO, establish the polling stations in premises that are not accessible to such electors.
- Subsection 168(6) of the Act indicates that an advance polling stations shall be in premises that are accessible to electors with a disability.
- Subsection 168(7) of the Act notes that if a RO is unable to secure suitable premises for an advance polling station that are accessible to electors with a disability, the RO may, with the prior approval of the CEO, establish the advance polling station in premises that are not accessible to such electors.
- Subsection 159(1) of the Act allows an elector who has a disability, and who is therefore unable to vote without difficulty at their assigned polling station, to apply for a transfer certificate to vote at another polling station in the same electoral district (ED).

For the purposes of section 121, a polling station is considered accessible if it meets criteria that have been established based on relevant standards and through consultations with ROs, the disability community and the Advisory Group for Disability Issues (AGDI), a group launched by EC to provide subject matter expertise and advice on accessibility. The standard of physical accessibility of polling places under the law is evaluated by applying a polling place suitability checklist. This checklist contains 37 accessibility criteria, of which 15 are mandatory. A polling place must meet all 15 mandatory criteria to meet the legal standard for accessibility. It may also be possible to mitigate accessibility issues to make polling places accessible. The checklist includes potential mitigations for each mandatory accessibility criteria.

The ROs, after receiving mandatory training on accessibility-related issues and procedures, assess the physical accessibility of polling places to support the democratic right to vote without undue barriers. They will then put in place mitigations when feasible and provide additional assistance for an elector with disabilities at an inaccessible polling place, for example, by providing a transfer certificate.

Elections Canada's commitment to providing accessible electoral services is wide-ranging as per the *Accessibility Policy and Service Offering* and this is further detailed in its [Accessibility Plan](#). This plan presents the steps the agency will take toward achieving greater inclusion of people with disabilities to ensure their full and equal participation in all aspects of the electoral process.

This directive explains how Elections Canada fulfills the requirements of the Act. It explains the factors that ROs and Elections Canada headquarters must consider when choosing polling places and when seeking the CEO's approval to use a polling place that is inaccessible. When applying the Act and the discretion it grants, the CEO seeks to fulfill the intent of Parliament by considering the electoral integrity principles outlined below, as stated in the *Policy on Standard In-Person Voting Services*. Depending on the specific context, not all these principles are necessarily applied.

4.1 Accessibility

Elections Canada strives to select polling places that comply with the accessibility criteria, and factors in the non-mandatory criteria allow Canadians to vote and/or be a candidate without encountering unnecessary barriers.

Elections Canada selects polling places that are safe to allow electors to cast their ballot and election officers to administer their duties.

4.2 Fairness

Elections Canada makes polling places accessible to all electors, candidates and candidate representatives; and informs candidates and political parties of where polling places are located by providing them the National List of Polling Locations.

4.3 Independence

Elections Canada selects suitable polling places in accordance with the Act, independently from partisan entities, and avoids selecting places that could reasonably be considered as associated with a candidate or political party.

4.4 Reliability

Elections Canada selects polling places in a manner that is predictable, consistent, understandable. The agency considers that a polling place is suitable when it reaches a balance among three key factors, availability, proximity, and familiarity; and that the capacity of the polling place is sufficient.

4.5 Transparency

Elections Canada provides clear information about the process of selecting suitable polling places to electors, candidates, and political parties, and communicates new information to them.

5. Selecting suitable and accessible polling places

The Act requires using accessible locations for polling places and stipulates that, whenever possible, an RO should establish a polling station in a school or suitable public buildings. However, over time, schools and other public buildings across the country may age, may no longer be available or may not meet evolving accessibility standards. The RO is central to solving the logistical challenge of selecting polling places for advance and ordinary polls. They are present on the ground and have local knowledge of their electoral district's (ED) geography,

population and infrastructure. In preparation for an election, the RO completes activities related to selecting suitable polling places, as instructed by Elections Canada headquarters. Some of these activities may not be applicable, depending on the ED's attributes and other factors; for example, if there is a fixed or non-fixed election date, how long the election period is or how responsive local partners are (e.g. property owners, community leaders, local accessibility organizations).

The following are the activities, related to suitable polling places, that the RO must complete:

- The RO is expected to periodically monitor and maintain communication with property owners to stay up to date on rental supply in their ED. The RO uses their knowledge of the area to identify suitable polling places and to proactively consider physical accessibility challenges.
- The RO is instructed to evaluate the suitability of polling places by balancing different, and sometimes opposing, factors including:
 - **Availability and capacity:** selecting available locations that have the capacity to hold equipment and comfortably fit election officers, electors, candidates, and candidate representatives.
 - **Proximity:** choosing locations that are close to electors or in an area that electors travel to regularly to access public or private services. The selection of proximate polling places is based on the principle of reasonableness that may vary from one community to another.

Approval of the CEO is required to choose a location that does not meet this principle.
 - **Familiarity:** choosing locations that have historically been used as polling places or locations that electors travel to regularly (e.g. a shopping centre or a public school).
- Finding accessible polling places depends on the supply of suitable polling places. From the list of suitable polling places, the RO will prioritize those that are accessible to electors with disabilities. If the RO is unable to find an accessible polling place, they may take actions to make a polling place more accessible.
- Once the writs are issued, the RO must be ready to sign short-term leases for advance and ordinary polls quickly. The RO will assign their polling divisions to polling places before the leases are prepared and sent to the property owners.
- The RO must ensure the cost of rental properties is reasonable given the constraints of short timelines. Because the accessibility of polling places is a priority, the RO should request approval for the payment of exceptional costs, in consultation with Elections Canada headquarters.
- The RO must avoid any perceived or actual personal conflict of interest when selecting suitable polling places.

- Once polling places are confirmed, Elections Canada issues voter information cards (VICs) to electors. VICs indicate an elector's designated polling place and its accessibility rating. After VICs are printed, polling place reassignment is only done in special circumstances with the approval of Elections Canada headquarters.
- When the RO is unable to find accessible polling places or make the polling places more accessible, they need the CEO's approval to choose suitable polling places that are not accessible for electors with disabilities (see section 6 of this directive). In such cases, the concerned electors may request a transfer certificate and be directed to a nearby accessible polling place, or to be directed to vote at the office of the RO or the AARO, ahead of the deadline.
- After election day, the RO will close the polling places according to the terms of the leases. Elections Canada will review and respond to accessibility complaints in collaboration with ROs, if any are received, and after, may undertake a review of polling places' sites. Forms are available for electors to provide accessibility feedback at the polls.

The RO may choose suitable polling places that are not accessible for electors with disabilities, with the CEO's approval, as per section 6 of this directive.

6. Inaccessible Polling Places

Despite all efforts, the RO may not be able to find a suitable polling place that meets the requirement in the Act that a polling place be accessible, i.e. the 15 mandatory accessibility criteria of the [Polling Place Suitability Checklist](#). The RO may also find that it is not possible to implement mitigations that would allow a suitable polling place to achieve these 15 mandatory criteria. In such a case, the Act allows the RO to seek the CEO's approval to use an inaccessible polling place.

Elections Canada will establish interim steps that the RO is to take before seeking the CEO's approval to use an inaccessible polling place. These interim steps could include reviewing several alternative locations, if applicable and feasible in their ED and reasonable in relation to the length of the electoral period.

If, after the RO has exercised reasonable efforts as well as completed any interim steps required by Elections Canada to find or negotiate a lease for a suitable and accessible polling place, they cannot secure any such location, the CEO may give them permission to proceed with the selection of a suitable polling place that does not meet the requirement of accessibility in the law.

The CEO may approve the use of a suitable but inaccessible polling place based on a report prepared by staff at Elections Canada, in collaboration with the RO, explaining that there are no suitable and accessible rental locations that could serve as a polling place. The report could include but is not limited to:

- a summary of the efforts and any interim steps that were taken to find a suitable and accessible polling place.
- an explanation of the ways the polling place fails to meet the 15 mandatory accessibility criteria.
- information from the RO explaining that electors would have to travel unreasonable distances or face difficult routes (e.g. lack of public transit or direct routes, or closed

- ice roads, etc.) to get to an accessible polling place, considering the importance of factoring in proximity.
- the unforeseen local circumstances that prevent the RO from selecting an accessible polling place (e.g. the loss of an accessible polling place that they planned to use).
 - the number of polling divisions assigned to the polling place to provide context on the impact to electors.
 - information concerning whether a polling place is near other government services (e.g. driver's licences office, etc.) or private services (e.g. grocery stores, etc.), on the premise that electors are familiar with the distance required to access these services.
 - information concerning whether a polling place has been used for previous federal elections and if there are any complaints and/or feedback associated with the polling place.
 - the time the RO has remaining before issuing and distributing VICs to electors.

If, based on the report received, the CEO is satisfied that the RO is unable to select a suitable polling place that is accessible, the CEO will approve the request for the use of an inaccessible polling place.

7. Roles and responsibilities

The CEO is responsible for making sure that Elections Canada delivers on its mandate, complies with the Act, and contributes to a trusted electoral democracy that serves all Canadians. The CEO is responsible for issuing instructions to election officers, including ROs, and for approving the use of inaccessible polling places.

For all other roles and responsibilities related to Elections Canada's regulatory policy instruments, please refer to *Regulatory Policy Development and Management*.

8. Monitoring, evaluation and review

Elections Canada monitors closely situations that generate accessibility issues and situations in which exemptions are given by the CEO.

This directive will be reviewed and updated, upon the request of the CEO, who may be advised in this regard by the Deputy Chief Electoral Officer – Regulatory Affairs and/or the Deputy Chief Electoral Officer – Electoral Events and Innovation. A proactive evaluation of all policy instruments will also be conducted following all general elections, so that operational changes can be reflected in the relevant instruments.

9. Inquiries

Address any questions about this directive to: politiqueregulatoire-regulatorypolicy@elections.ca.