



Written Opinions, Guidelines and Interpretation Notes

Guideline: 2021-07

Addendum to the Guidelines for Candidates' Representatives

Comments made during consultation period of August 3 to 14 and October 6 to November 19, 2021

Comments received from the Liberal Party of Canada	Elections Canada response to the Liberal Party of Canada
<p>General comments The Guideline is consistent with the information and material distributed by Elections Canada during the 44th general election.</p>	<p>The guideline has been updated to refer to “a general election” rather than “the 44th general election” (in Part 3, <i>Guidelines for Observing Counting Operations at the Office of the Special Voting Rules Administrator</i>). It will continue to be valid for future general elections, unless superseded by a new guideline.</p>
<p>Specific comments We provide the following specific points for consideration:</p> <ol style="list-style-type: none"> 1. On page 2 in the document <i>Additional Guidelines for Observing Voting Operations at Ordinary and Advance Polling Places</i>, in the section “Impacts on the Functions of Candidates’ Representatives,” in the subsection “Candidates’ representatives during voting hours,” the second paragraph commencing with “Note” states: “Under the health and safety measures, the central poll supervisor (or the deputy returning officer of designated supervisor on site) may restrict the movement of candidates’ representatives within the polling place if necessary to ensure the health and safety of electors and workers both during voting and during the count.” It would be beneficial to include a statement confirming that the intention of the restrictions is not to infringe on a candidate’s representative’s right to observe registration and voting activities at the polling location. 	<p>The purpose of the cited statement is to advise candidates’ representatives that pandemic measures adopted to protect everyone’s health at the polls may impact how they carry out their legal right to observe proceedings. Because measures may vary based on the jurisdiction, polling place requirements or the pandemic stage, the guideline makes a high-level statement about possible restrictions. However, it confirms the intention of the restrictions, which are to be applied “if necessary to ensure the health and safety of electors and workers.”</p>

<p>2. On page 4 in the document <i>Guidelines for Observing Special Ballot Voting Operations and Special Ballot Verification and Counting at Returning Offices</i>, in the section “Registration and Voting Procedures,” in the subsection “Registering to Vote by Special Ballot,” the fourth paragraph states: “Once an elector’s application to vote by special ballot is accepted and a special ballot voting kit is issued, they can only vote by special ballot in the current election. They cannot vote at the advance or election day polls.” It would be useful guidance to explain that poll workers are authorized to allow an elector to vote in person, even if they had applied to vote by special ballot, so long as they complete a <i>Voting Status Certificate</i>.</p>	<p>In the 44th general election, because of pandemic challenges and the increase in applications to vote by mail, the Chief Electoral Officer issued an instruction adapting the <i>Canada Elections Act</i> to allow electors who had applied to vote by mail to instead vote at the polls in limited circumstances (Instruction 179-G-2021-05). There is no regular provision in the Act for an elector to vote at the polls once their application for a special ballot has been accepted. As the instruction was exceptional and time-limited, the guideline has not been updated in this respect.</p>
<p>Comments received from the Commissioner of Canada Elections</p>	<p>Elections Canada response to the Commissioner of Canada Elections</p>
<p>On page 5 of the <i>Guidelines for Observing Special Ballot Voting Operations and Special Ballot Verification and Counting at Returning Offices</i>, the following is stated:</p> <p>“A <i>local</i> elector who does not vote immediately, but rather leaves with their special ballot voting kit, is responsible for ensuring that the completed ballot reaches the office of the returning officer in their electoral district before the polls close in that electoral district on election day. Otherwise, it cannot be counted.”</p> <p>This statement does not appear to accurately reflect the wording of subsections 239(2) and (3) of the <i>Canada Elections Act</i>, which allows a local elector who takes out their special ballot to complete it and return it either to the office of the returning officer in their electoral district or to the Special Voting Rules Administrator in Ottawa. In both cases the ballot ought to be counted.</p>	<p>The statement has been modified as follows: “ ... is responsible for ensuring that the completed ballot reaches the office of the returning officer in their electoral district before the polls close in that electoral district or reaches Elections Canada headquarters no later than 6:00 p.m., Eastern Time, on election day. Otherwise, it cannot be counted.”</p> <p>Please note that, while the draft guideline misstated the treatment of potentially misdirected ballots, Elections Canada has not rejected any local electors’ ballots for being returned to headquarters rather than to the local office. Moreover, this scenario is unlikely to occur since an elector’s special ballot voting kit contains a pre-addressed envelope for returning ballots to the correct location.</p>

The following parties did not submit comments to Elections Canada regarding OGI 2021-07:

- Animal Protection Party of Canada
- Bloc Québécois
- Canadian Nationalist Party
- Centrist Party of Canada
- CFF – Direct Democracy Party
- Christian Heritage Party of Canada
- Communist Party of Canada
- Conservative Party of Canada
- Free Party Canada
- Green Party of Canada
- Libertarian Party of Canada
- Marijuana Party
- Marxist-Leninist Party of Canada
- Maverick Party
- National Citizens Alliance of Canada
- New Democratic Party
- Parti pour l'Indépendance du Québec
- Parti Patriote
- Parti Rhinocéros Party
- People's Party of Canada
- Veterans Coalition Party of Canada