

Chief Electoral Officer Directives for the Nomination of Candidates

(Elections Act, R.S.N.B. 1973, c.E-3, ss. 5(5), para.13(2)(c), ss. 48.1(1), and s.51, 52, 54, 55, 56)



P 01 401
(2021-09-07)

Who Can Be a Candidate?

General Requirements: To be a candidate in a provincial election or by-election, a person must be:

- 18 years of age on or before election day;
- a Canadian citizen; and
- a resident of the province for at least 40 days immediately preceding election day.

A mayor or councillor of a municipality may run as a member of the legislative assembly (MLA) in a provincial election or by-election without resigning their seat. After the election, if that person is declared elected, then they must resign as mayor or councillor prior to taking the oath of office and sitting as a MLA.

People Who Cannot Be Candidates: A judge, an election officer, or a person who has been disqualified from being elected a member of the Legislative Assembly under federal, provincial, or municipal election laws, may not be a candidate anywhere.

People Who Might Not Be Able To Be Candidates: Some public sector employees are restricted by their employers from engaging in political activity, or may need prior approval from their employer before filing nomination papers. If you work in the federal or provincial public service, check with your employer before filing nomination papers. It is the responsibility of a candidate to obtain any approval required by their employer; the Returning Officer is not responsible for determining whether such approval is required or has been obtained in processing nomination papers.

Federal Public Service Employees (this information is provided by the Public Service Commission of Canada): In most federal public service organizations, an employee may seek nomination as, or be, a candidate in a municipal or provincial election before or during the election period, only if the employee has obtained permission from the Public Service Commission of Canada (PSC) to do so. This means that until a federal employee has obtained permission from the PSC, no declaration of candidacy or candidacy-related activities may be undertaken. The PSC may grant permission, with or without conditions, only if it is satisfied that seeking nomination as, or being, a candidate will not impair or be perceived as impairing the employee's ability to perform their duties in a politically impartial manner. Before engaging in any non-candidacy political activity, an employee should assess their own circumstances. The PSC also encourages employees to consult their manager or their organization's designated political activities representative. A list of the designated political activities representatives for organizations subject to these rules and other information on Political Activities are available at www.psc-cfp.gc.ca under the "Political Activity" section. You can also contact the PSC at 1-866-707-7152, or pa-ap@psc-cfp.gc.ca.

Nomination of Candidates:

Nomination papers (Form P 04 001) may be obtained from any returning office, or from the website of Elections NB.

The Returning Officer or an Election Clerk may receive the nomination papers of candidates at a returning office or satellite returning office for the appropriate electoral district any time between the date of the proclamation and 2:00 p.m. on Nomination Day:

- In a scheduled general election, Nomination Day is a Tuesday, the twentieth day before the date of the election; and
- In all other elections and by-elections, Nomination Day is a Friday, the seventeenth day before the date of the election.

Do not leave filing to the last minute, in case corrections or additions are needed in your nomination papers. Under subsection 5(5) of the *Elections Act*, no nomination papers can be accepted after the deadline under any circumstances.

Fill out the nomination paper carefully and completely. Each nomination paper must include the following:

- the candidate's name, civic address, and occupation;
- the designation of an official agent who shall authorize election expenses for the candidate;
- the designation of an agent to whom copies of the lists of electors are to be provided and who may appoint scrutineers;
- the consent of the candidate, and the indication of their political party, or that they are an independent candidate;
- a completed affidavit of the witness to the consent of the candidate. Affidavits may be sworn before a Commissioner Of Oaths at any Service New Brunswick location;
- the signatures of at least twenty-five (25) nominators who are qualified voters in the electoral district of the candidate; and
- one or more completed affidavits of the witness or witnesses who obtain the nominators' signatures, sworn or affirmed before a Commissioner Of Oaths (who, under subsection 124(4) of the Elections Act, may not charge a fee for such an oath). Affidavits may be sworn before a Commissioner Of Oaths at any Service New Brunswick location.

A witness may be one of the nominators if there is a second witness to give the affidavit with respect to their nomination signature. Relatives of a candidate may be nominators if they are qualified voters in the district. Electors may only sign the nomination paper of one candidate.

The candidate's name will appear on the ballot exactly the way it appears on the nomination paper, exclusive of any professional, academic or honorary title or its abbreviation. A nickname is permitted, in brackets, if it is printed on the nomination paper as the candidate wishes it to appear on the ballot.

A candidate, and a spouse or dependant of the candidate who lives with them and who is qualified as an elector, are entitled to:

- have their names entered on the lists of electors for the following places:

- the place where the candidate is ordinarily resident;
 - the place where the candidate is temporarily resident during the election, if it is in the electoral district in which they are a candidate;
 - any place where an office of the Returning Officer is located for the electoral district in which they are a candidate; or
 - if the candidate was a member on the day before the dissolution of the Legislative Assembly immediately preceding the election, the place in Fredericton or the area surrounding Fredericton where the former member resided for the purpose of carrying out their duties as a member; and
- to vote in any one of those places as each of them may elect.

If a candidate, a spouse or dependant of a candidate wishes to have their name entered at an address other than the address where they are ordinarily resident, ensure that the Returning Officer is made aware of the decision, so that the Lists of Electors can be updated.

Candidates of a Recognized Party:

A candidate of a registered party must deliver with the Nomination Paper a certificate signed by the party leader before two witnesses, declaring that they are an official candidate of the party. A *Leader's Certificate (P 04 002)* may be used, or a certificate containing the same information may be created by the party.

Deposits:

A one hundred dollar (\$100) deposit, in cash or by certified cheque or money order, made payable to "The Minister of Finance", must accompany each nomination paper.

The deposit by a candidate will be returned to the candidate by the Minister of Finance when the candidate's official agent submits their Electoral Financial Return in accordance with section 81 of the *Political Process Financing Act*.

The nomination of a candidate is complete when the Returning Officer issues a receipt for the deposit.

The Returning Officer will give the nominated candidate the following information:

- Information for Potential Candidates for Provincial Elections and By-elections (P 04 301);
- Supplemental Information for Potential Candidates (P 04 301 S);
- Electoral Advertising Information and Guidelines (P 04 943);
- Electoral Financing Overview (P 04 945);
- Election expense limits and potential reimbursements;
- A copy of the Election Schedule, setting out dates relevant to the pending election or by-election;
- Information for Scrutineers / Candidate Representatives (P 04 305);
- Procedure for filling out the Statement of the Electors Who Voted on Polling Day (C 07 732)
- Application for Registration as an Independent Candidate (P 04 841) (as required);

- Declaration Regarding Candidate's, MLA's and Registered Parties' use of the Lists of Electors (P 04 101);
- Declaration Regarding the Authorized Use of the Lists of Electors (P 04 103); and
- A machine readable copy of the list for each polling division in the electoral district.

Withdrawal of a Candidate:

Under section 54 of the *Elections Act*, a candidate may withdraw their nomination not later than forty-eight hours before the opening of the polls on Election Day (that is, by 10:00 a.m., the Saturday before the date of the election), by filing a written statement of withdrawal with the Returning Officer. The statement must be signed by the candidate and two witnesses who are qualified voters in the electoral district. Any votes cast for a candidate who has so withdrawn are null and void. If a candidate withdraws after being nominated, the candidate's official agent must still submit an electoral financial return; however, the deposit paid when the candidate was nominated is forfeited.

Death of a Candidate:

Under section 55 of the *Elections Act*, if a candidate dies after nominations close and before the closing of the polls on the date of the election, the Returning Officer with consent of the Chief Electoral Officer, will countermand the election for that district, and fix new dates for nominations and a postponed election. The new nomination day will be not more than one month from the death of the candidate, and the new election day seventeen days after that. Candidates already nominated need not resubmit nomination papers, but additional candidates may be nominated. If a candidate dies after nominations close and before the closing of the polls on the date of the election, the candidate's official agent must still submit an electoral financial return. The deposit paid when the candidate was nominated is will be repaid to their estate.

Acclamations:

Under section 56 of the *Elections Act*, if only one candidate is nominated in a district, that candidate is elected by acclamation and no polls are held.

Additional Information for Independent Candidates:

An independent candidate means a candidate who is not a candidate of a recognized party.

Decision to Remain Unregistered or to Register

If a person wishing to run as an independent candidate in a provincial election:

- will not be accepting any contributions;
- will not be spending any money outside of an election period to promote or oppose, directly or indirectly, the election of any candidate; and
- will not personally incur election expenses in excess of \$2,000 during an election period, will incur these expenses out of their personal funds, and will not be reimbursed by their official agent,

the person may choose not to register with the Chief Electoral Officer and is referred to as an “unregistered independent candidate”. They must still appoint an official agent upon filing a nomination paper with the returning officer.

If a person wishing to run as an independent candidate in a provincial election:

- will be accepting contributions from any individual;
- will be spending money outside of an election period to promote or oppose, directly or indirectly, the election of any candidate, or
- will be incurring election expenses in excess of \$2,000 during an election period,

the person must register with the Chief Electoral Officer and is referred to as a “registered independent candidate”. They must appoint both an official representative and an official agent, as described below.

Each independent candidate must confirm or appoint an official agent upon filing their nomination paper with the applicable returning officer, and each independent candidate must otherwise comply with all relevant provisions of the *Elections Act* and *Political Process Financing Act*, including their official agent submitting an electoral financial return following the election.

Registration Process

An independent candidate wishing to register must file an *Application for Registration as an Independent Candidate* (P 04 841) in writing signed by the individual and setting out:

- the full name and address of the individual;
- the name of the electoral district in which they intend to be an independent candidate; and
- the address to which communications intended for them may be addressed and where the books, records and accounts pertaining to contributions to and expenditures by them are or will be maintained.

Appointment of Official Representative by a Registered Independent Candidate

The official representative is the person responsible for raising sufficient funds to finance the election campaign.

Subsection 137(4) of the *Elections Act* requires that each registered independent candidate must, within twenty (20) days after they become registered, file with the Chief Electoral Officer a notice signed by them setting out the official representative’s name and address. This notice is done using the *Notice of Official Representative for a Registered Independent Candidate* (P 04 841.2).

Subsection 137(8) of the *Elections Act* requires that an official representative of a registered independent candidate must:

- be the full age of nineteen years;
- be a Canadian citizen;
- be resident in the Province;
- not be disqualified from voting under the *Elections Act*; and
- not be a candidate or an election officer.

Appointment of Official Agent by an Independent Candidate

An official agent is the person responsible for authorizing the election expenses for an election campaign and submitting an electoral financial return following the election.

Subsection 138(4) of the *Elections Act* requires that each independent candidate must, within twenty days after they become registered, file with the Chief Electoral Officer a signed notice setting out the official agent's name and address. This notice is done using the *Notice of Official Agent for an Independent Candidate* (P 04 841.3).

Subsection 69(3) of the *Political Process Financing Act* requires that any candidate, including an independent candidate, who does not have an official agent registered with the Chief Electoral Officer on the date their nomination paper is filed, shall, within three (3) days of that date, appoint an official agent. This notice is done using the *Nomination Paper* (P 04 001).

Subsections 138(9) and 137(8) of the *Elections Act* require that an official agent of an independent candidate must:

- be the full age of nineteen years;
- be a Canadian citizen;
- be resident in the Province;
- not be disqualified from voting under the *Elections Act*; and
- not be a candidate or an election officer.

In most cases, the official agent of an independent candidate is usually the same person as the official representative of that candidate.