



**Elections
Ontario**

Special report of the Chief Electoral Officer on
election administration and the COVID-19
pandemic

November 30, 2020

The Honourable Ted Arnott
Speaker of the Legislative Assembly
Room 180, Main Legislative Building, Queen's Park
Toronto, ON M7A 1A1

Dear Mr. Speaker:

I am submitting the *Special Report of the Chief Electoral Officer on Election Administration and the COVID-19 pandemic* to outline the need for amendments to Ontario's *Election Act* in response to the COVID-19 pandemic.

While the *Election Act* provides a variety of ways to modify some election procedures to respond to the pandemic, legislative changes are required to ensure both the integrity of the vote and the health and safety of voters.

My three recommendations for legislative change include:

- Extend the election calendar
- Set election day to a day when schools are not in session
- Establish 10 days of flexible advance polls

These recommendations, which have previously been made to the Legislative Assembly, will allow us to better protect voters while improving our electoral process for future elections.

I would ask the Legislative Assembly to act swiftly on implementing these amendments so that we can safely administer the 2022 general election, and for future elections.

Sincerely,



Greg Essensa
Chief Electoral Officer

1 COVID-19 and election administration

The ongoing COVID-19 pandemic has presented new challenges for election administration across Canada, as electoral management bodies, health officials and governments at all levels have worked together to protect the health and safety of voters and poll workers.

Early in the pandemic, local governments across Canada postponed municipal elections to avoid large gatherings. Most recently in fall 2020, provincial electoral management bodies in New Brunswick, British Columbia and Saskatchewan modified existing poll processes to accommodate health and safety guidelines to deliver provincial general elections. Similarly, Elections Canada also modified their processes when they administered two by-elections in Toronto in October 2020.

Voters in these three provincial elections and in the federal by-elections were encouraged to wear masks inside voting locations, keep two meters apart and sanitize their hands upon entering and exiting the voting location. Staff were provided with personal protective equipment (PPE), and, in some cases, barriers separated voters from election officials. In British Columbia, Saskatchewan and the federal by-elections, voters were each given their own pen/pencil to use when marking their ballots. In New Brunswick, the markers at voting locations were disinfected between uses.

As part of its preparations for a possible federal election, Elections Canada submitted a report to House of Commons requesting several temporary legislative changes to make voting safer during the pandemic: change election day to two eight-hour days on a weekend; accept ballots received after election day if they are postmarked before election day; offer tailored voting for long-term care residents; and expansion of the Chief Electoral Officer's ability to modify any part of the electoral process, with some exceptions, to allow the election to proceed safely.

Elections Ontario also delivered two by-elections in the Ottawa region in February 2020 as the virus was beginning to spread globally. While the domestic infection rate was low at the time, and community spread of the virus had not yet begun, we engaged Ottawa's public health officials. On their advice, we made hand sanitizer available at all voting locations to protect the health and safety of staff.

To date, electoral management bodies have largely adapted to the pandemic by modifying existing processes and have been quick to adjust protocols to mitigate the risks to voters and staff. As we prepare for future elections during the pandemic or in a post-pandemic environment, additional changes requiring legislative support will enable a much safer and more responsive election administration.

2 Legislative amendment requests

While the 2022 general election is still a year and a half away, the course of the COVID-19 virus remains uncertain. Many health experts have predicted that the virus may continue in the months and years to come. Even with recent advances in treatment for the virus, there could be residual effects of the pandemic. It is critical that Elections Ontario be ready to deliver an election that protects both the integrity of the vote, and the health and safety of voters and our staff. To that end, we have been working in partnership with the Ontario Chief Medical Officer of Health and have engaged their advice on how we can administer accessible, safe and secure elections should the COVID-19 pandemic continue to be a concern.

The *Election Act* is prescriptive in outlining how elections are administered in the province. Without significant abilities to adjust certain provisions of that statute and modify our operations, we may not be able to fully mitigate the risks of the pandemic for voters. Elections Ontario needs to be prepared for all scenarios as we do not know what challenges our society will be faced with leading up to the 2022 general election as we continue to live with the pandemic or recover from it. For this reason, the Chief Electoral Officer of Ontario is recommending three legislative changes to allow Elections Ontario to administer a general election safely and responsibly.

Elections Ontario has previously made these recommendations in annual and post-election reports prior to COVID-19 and they will still be valid once the pandemic is behind us. The recommendations will protect voters and election workers, regardless of circumstances, and, at this time, would greatly enhance Elections Ontario's ability to deliver a safe election during the COVID-19 pandemic and into the future. By making these changes, Elections Ontario will be able to effectively protect voters during the pandemic—while being flexible enough to meet changing voter expectations in the future.

2.1 Extend the election calendar

In Canada, Ontario has the largest population of registered voters, yet one of the shortest election calendars. Most provinces with larger populations have longer writ periods that range from 33 to 39 days, including British Columbia and Quebec. At the federal level, the election calendar is at least 36 days. Since 2014, the Chief Electoral Officer has recommended that the election calendar be extended from 29 days to at least 36.

Ontario's current 29-day election calendar, which serves over 10.2 million voters, is comparable to the calendars for most of the Atlantic provinces, which have much smaller populations and geographic distances. Following New Brunswick's general election, which took place during the pandemic, the province's Chief Electoral Officer said that 28 days was not enough time to deliver an election for the province's approximately 600,000 voters, even under ideal conditions.¹

In Ontario, the election calendar was extended once to 36 days for the 2014 general election to accommodate a day of religious significance. The additional time allowed Elections Ontario to successfully deliver a non-fixed date election and gave Returning Officers the time they needed to secure and equip their offices and identify voting locations.

In 2018, Elections Ontario once again experienced significant logistical challenges in providing more days and more ways for Ontarians to vote as the province returned to the 29-day calendar. With 124 electoral districts for the 2018 general election—an increase from previous elections—more materials needed to be prepared and distributed. From the need to deploy materials to the field to the increased number of nominated candidates, the already tight turnaround times have become increasingly challenging to manage in such a short amount of time. Returning Officers also faced challenges administering the election in the allotted time, including finding voting locations and recruiting staff.

To deliver the 2022 general election during the pandemic, Elections Ontario will need to transport even more materials across the province, including PPE, transparent dividers and cleaning supplies. Returning Officers will be

¹ Urquhart, Mia. "Lessons learned from Canada's first pandemic election." CBC News, 15 September 2020, <https://www.cbc.ca/news/canada/new-brunswick/lessons-from-pandemic-election-1.5724694>.

responsible for finding new voting locations that can accommodate physical distancing, while trying to recruit staff willing to work during the pandemic.

Extending the election calendar to 36 days will give Elections Ontario the time it needs to distribute materials and allow Returning Officers to identify safe voting locations and hire staff. The additional week would also provide more days for ballot printing, early voting, and the receipt of mail-in ballots—benefits that would continue to respond to changing voter behaviours and expectations in future elections.

Under a 36-day calendar, and including additional legislative changes outlined below, Elections Ontario would be able to offer:

- Ten days of advance flexible polls, up from five days
- Twenty-nine days of early in-person voting at the returning office through the special ballot program, including the availability of assistive voting technology on election day
- Additional days to apply to vote by mail from the 23 currently available

2.2 Set election day to a day when schools are not in session

Since the 2011 general election, the Chief Electoral Officer has recommended that election day be set to a day when schools are not in session, either by making election day a holiday for schools or by moving election day to a weekend date.

Both Ontario's *Election Act* and *Education Act* provide for schools to be used as voting locations during provincial elections. Schools are foundational to running elections. They are among the most familiar and convenient locations for voting, partly because they can be found in virtually every residential neighbourhood in Ontario, and because they tend to meet accessibility standards. However, parents, caregivers and teachers continue to express concerns about the safety and security of schools as voting locations.

In the last three Ontario general elections in 2011, 2014 and 2018, 26 to 28 per cent of all voting locations were in public schools, with approximately 45 per cent (or 4.57 million out of 10.26 million) of voters assigned to vote in those polls. As Elections Ontario prepares to deliver an election during the COVID-19 pandemic, the use of schools will continue to be critical and the need for expanding the number of schools that are used as voting locations will increase. Schools offer larger voting locations that are able to facilitate

physical distancing and will provide Elections Ontario with voting locations in most communities, should other venues restrict access due to the pandemic.

We recognize that this puts school populations at risk to exposure from voters coming to the polls. By setting election day as a day when schools are not in session, students would avoid sharing the school space with voters.

Saskatchewan adopted a change to election day ahead of the province's fall election when their Chief Electoral Officer requested that schools be closed on election day "to more effectively protect Saskatchewan students, voters, election officials, and political party representatives."² Elections Canada has also requested a temporary change in response to the pandemic that would spread election day over a weekend.³

In 2017, British Columbia moved its provincial election day to Saturday,⁴ matching weekend voting at the municipal level.⁵ Nova Scotia⁶ and Quebec⁷ have previously set election day to a weekend for their municipal elections, while election day for provincial elections in Manitoba⁸ and Quebec⁹ is designated as a professional development day.

Elections Ontario acknowledges that either proposal for setting election day as a day when schools are not in session creates challenges. An additional holiday during the school year impacts parents and caregivers, while a weekend election day overlaps with some religious observances. In the context of the pandemic, this recommendation is being made to best protect the health and safety of students and their families, as well as voters.

Ontario's *Election Act* offers voters a number of options for voting before election day, including voting in-person at returning offices from the day after the election is called until 6 PM the day before election day, as well as

² Boda, Michael. "Conduct of Saskatchewan's 29th General Election in the Context of Novel Coronavirus Disease: Recommendations." Elections Saskatchewan Website, 19 May 2020, cdn.elections.sk.ca/upload/SK_CEO.-May-4-Recs-on-GE29-v1.0-FINAL.pdf.

³ Elections Canada. "Special Report of the Chief Electoral Officer: Administering an Election during the COVID-19 Pandemic." Elections Canada Website, 5 October 2020, https://www.elections.ca/res/rep/oth/sprep/sprep_e.pdf.

⁴ British Columbia's Constitution Act. British Columbia. Web.

⁵ Local Government Act. British Columbia. Web.

⁶ Municipal Elections Act. Nova Scotia. Web.

⁷ Loi sur les élections et les référendums dans les municipalités. Québec. Web.

⁸ The Election Act and The Education Administration Act. Manitoba. Web.

⁹ Loi électorale. Québec. Web.

advance and mail-in voting. The Act also authorizes the Chief Electoral Officer to modify the election calendar in the event that election day falls on a day of cultural or religious significance.

Long-term, this change would provide for easier access to schools for voters and would help keep children safe. Although Elections Ontario pays for security at schools, the safety and security of school children would be enhanced by moving election day to a day when schools are not in session.

2.3 Establish 10 days of flexible advance polls

In 2016, the *Election Statute Law Amendment Act* amended Ontario's *Election Act* to provide five days of advance voting at fixed locations. Prior to this change, Elections Ontario was able to rotate advance voting locations within an electoral district over the course of 10 days of advance voting for the 2011 and 2014 general elections.

The 2018 general election was the first held under these new requirements for advance voting, and the process did not meet public expectations. Public polling conducted on behalf of Elections Ontario found that Ontarians are looking for more options to cast their ballot ahead of election day, including a growing desire to vote during advance voting.

The interest in early voting has only grown due to the pandemic. This was evident in the general elections held in New Brunswick, Saskatchewan, and British Columbia. As voters returned to the polls in 2020, we have witnessed a shift in electors choosing to vote early in record numbers. In New Brunswick, the number of voters choosing to cast their ballots early—either by mail or during advance voting—surpassed election day turnout for the first time, with 35 per cent of voters choosing advance voting.¹⁰ It was the same in Saskatchewan, with 41 per cent of voters voting in advance polls.¹¹

¹⁰ “Unofficial Results.” Elections New Brunswick, 14 September 2020. <https://www.gnb.ca/elections/results-resultats/2020-09-14/results-resultats.html#at/e468f4a1-f9de-4425-a60a-cb5cbca025b5/ar/51/>. Accessed 12 November 2020.

¹¹ “2020 General Election Results.” Elections Saskatchewan, 7 November 2020. <https://results.elections.sk.ca/>. Accessed 12 November 2020.

In British Columbia, 36 per cent of voters chose advance voting while only 29 per cent of voters opted to vote in person on election day.¹² In the United States, over 100 million voters chose early voting, either in person or by mail, with early voting in some states surpassing overall voter turnout for 2016.¹³ The trend shows that more people are voting early, either by mail or during advance voting, which is a departure from past practice of voters waiting until election day to cast a ballot.

While historically Ontarians have chosen advance voting at lower rates than in other provinces, we expect to see a similar increase in interest if the 2022 general election takes place during the pandemic. Greater access to advance voting during the pandemic would also mean we are able to spread out the number of voters arriving at a location to cast their ballot—supporting provincial efforts to avoid large gatherings and flatten the curve.

Our own data also reveals how longer advance voting periods could benefit electoral districts with consistent advance voter turnout across polls. Consistent turnout over a longer period of time would allow more voters to cast their ballots early. For electoral districts with polls that show more variability in turnout over the advance voting period, flexible advance voting options would allow us to better respond to local needs once interest in advance voting has been exhausted in one part of the electoral district.

The Chief Electoral Officer therefore recommends increasing the number of days for advance voting to 10 days, up from 5 days currently, and to allow for flexible advance voting, to provide more responsive service to individual electoral districts, remove barriers to voting and keep voters safe from COVID-19.

3 Delivering a safer election

Electoral management bodies across Canada have moved quickly to respond to the unprecedented challenges of the COVID-19 pandemic. Early decisions to postpone municipal elections in other provinces gave us additional time to identify best practices for keeping voters safe at the polls. Within six months

¹² “2020 Provincial General Election Final Voting Results.” Elections BC. <https://electionsbccenr.blob.core.windows.net/electionsbccenr/GE-2020-10-24.html>. Accessed 12 November 2020.

¹³ Mayes, Brittany Renee, Rabinowitz, Kate. “The U.S. hit 73% of 2016 voting before Election Day.” The Washington Post, 20 October 2020, <https://www.washingtonpost.com/graphics/2020/elections/early-voting-numbers-so-far/>.

of the pandemic being declared, provincial electoral management bodies across Canada were able to modify existing processes and source PPE to continue facilitating one of the cornerstones of our democracy. In 2020, we have seen many elections taking place around the world with proper health and safety protocols in place.

As we look ahead to the 2022 general election, we remain aware that the course of the pandemic remains uncertain and there may be residual effects of the virus. Elections Ontario is mandated to remain ready to deliver an election whenever called upon, and whatever the circumstances. For this reason, we have begun to prepare for the possibility that the general election will take place during the pandemic and we are ready to modify existing processes in response to COVID-19.

However, we have the benefit of even more time to prepare—allowing us to look beyond modifications to legislative changes that will leave us better able to protect Ontarians at the polls. These changes will give our Returning Officers more time to safely prepare their electoral districts for the election, allow more time for voters to cast their ballots early while limiting gatherings, and give us the resources to ensure the health and safety of students, families and voters while preserving access to critical voting locations across the province.

Furthermore, these changes would improve our electoral process beyond the pandemic, allowing us to continue delivering elections that meet the evolving needs of Ontario's voters now, and into the future.

In requesting these changes, we remain fully aware of, and committed to, the mission given to us by Ontarians to uphold the integrity and accessibility of the province's electoral process, and to manage elections in an efficient, fair and impartial manner. These changes will allow us to protect the health and safety of voters and staff while ensuring the integrity of our elections is never compromised.