



CEO DIRECTIVE – VOTE COUNTING EQUIPMENT

DIRECTIVE NO.	CEO DIRECTIVE 2023-005
Date	April 20, 2023
Date Revised	N/A
Subject	Vote Counting Equipment
Reference	Section 5.1 of <i>The Election Act, 1996</i>
Provisions of <i>The Election Act, 1996</i> and <i>The Election Act Regulations</i> Impacted	Sections 35, Part IV Division D, and Part V of <i>The Election Act, 1996</i> and Appendix – Part II – Form A and Form D of The Election Act Regulations
Intent	To direct the use of vote counting equipment

The Chief Electoral Officer has the authority, under section 5.1 of *The Election Act, 1996* (the Act) to direct the use of an alternate procedure, equipment or technology during a by-election. These CEO Directives must be provided to the Speaker of the Legislative Assembly, the Board of Internal Economy and each registered political party at least four weeks before the writ for a by-election is issued.

For any provincial by-elections held in the Province of Saskatchewan before September 30, 2023, the Chief Electoral Officer hereby directs the use of automated vote counting equipment as an alternate procedure for counting ballots in accordance with the Act subsection 5.1(2).

In accordance with subsection 5.1(4), this alternate procedure will be implemented if the by-election is called at least four weeks after the date of this CEO Directive.

The purpose of using vote counting equipment is to learn about its effectiveness as an alternate procedure to manual vote counting prior to the next provincial general election. Counting ballots using automated vote counting equipment will be faster and more efficient than the manual process described in the Act. Vote counting equipment will be used at all voting locations which are established for the entirety of the polling period (see CEO Directive 2023-001). Vote counting equipment will not be used at stand-alone polling locations established on the final day of the polling period.



CEO DIRECTIVE – VOTE COUNTING EQUIPMENT

The Chief Electoral Officer hereby directs that the following provisions of the Act and *The Election Act Regulations* be modified as set out in Appendix “A” to this CEO Directive:

- Section 35 – Ballot Papers - the form of the ballot paper
- Regulations Appendix – Part II – Form A
- Part IV DIVISION D – Voting - specified voting provisions
- Part V – COUNTING – specified vote counting provisions
- Section 171 – Returns to the Writ

This Directive is in effect for any provincial by-elections held in the Province of Saskatchewan on or before September 30, 2023

A handwritten signature in blue ink that reads 'Michael D. Boda'.

DR. MICHAEL BODA
CHIEF ELECTORAL OFFICER
PROVINCE OF SASKATCHEWAN
APRIL 20, 2023



CEO DIRECTIVE – VOTE COUNTING EQUIPMENT

APPENDIX A

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Subject	Vote Counting Equipment
Reference	Section 5.1 of <i>The Election Act, 1996</i>
Provisions of <i>The Election Act, 1996</i> and <i>The Election Act Regulations</i> Impacted	Sections 35, Part IV Division D, and Part V of <i>The Election Act, 1996</i> and Appendix – Part II – Form A and Form D of The Election Act Regulations
Intent	To direct the use of vote counting equipment

As identified in CEO Directive 2023-005 the Chief Electoral Officer hereby directs that the following provisions of specified sections of *The Election Act, 1996* (the *Act*) and *The Election Act Regulations* be modified in the following manner:

Modifications to *The Election Act, 1996* and *The Election Act Regulations*

In order to facilitate the use of Vote Counting Equipment, the following definitions will apply, and the following sections of *The Election Act, 1996* will be modified. These modifications do not apply to certain stand-alone polling locations, with the exception of the use of machine-readable ballots, established for the final day of voting which will not use vote counting equipment.

1. Definitions:

- a. "Auxiliary compartment" means the separate compartment of the ballot box where voters' ballots are temporarily stored in the event the vote counting equipment fails to operate.
- b. "Ballot" means the portion of a ballot paper that is to be marked by a voter and deposited in the ballot box. A machine-readable ballot paper will not change in substance, insofar as is possible, the requirements set out in *The Election Act, 1996* and *The Election Act Regulations* respecting ballot papers.
- c. "Ballot box" means the box to which the vote counting equipment is affixed where ballots are stored once they are accepted by the vote counting equipment.
- d. "Memory card" means a digital card that is a removable from the vote counting equipment, where all tabulated vote totals of the ballots in the ballot box are stored.
- e. "Secrecy sleeve" means the folder into which a ballot can be placed so as to conceal the name of the candidates and any mark made by the voter upon the face of the ballot, but which exposes the initials of the deputy returning officer or special election officer.
- f. "Special election officer" means one or more persons appointed by the chief electoral officer in consultation with the returning officer for the purpose of operating the vote counting equipment and to assist electors with its use under the direction of the special election officer.
- g. "Unreadable ballot" means a ballot that will not be accepted by the vote counting equipment because the ballot it is unreadable by the vote counting equipment.
- h. "Vote counting equipment" means equipment that digitally reads a specified area on the ballot to record the vote of the voter and to tabulate the results of the election.
- i. "Zero totals report" means the report from a vote counting equipment memory card that confirms no votes have been cast through the vote counting equipment.

2. Section 5(6) – CEO - Powers and responsibilities:

The Chief Electoral Officer will not be sending the returning officer stereotypes, printer's blocks or other printing aids for making impressions on the back of the ballot.

3. Section 35 - Ballot papers:

- a. For the purposes of section 35, machine-readable ballot papers will not have a detachable counterfoil or a stub and will not be consecutively numbered.
- b. Machine-readable ballot papers will not be folded by the voter. These ballot papers will be inserted by the voter into a secrecy sleeve and fed into the vote counting equipment and read before being deposited into the ballot box.

- c. The Chief Electoral Officer, not the returning officer, will arrange for, instruct and cause a printer to print the machine-readable ballot papers.
- d. The form of the machine-readable ballot paper will be determined by the Chief Electoral Officer and will conform to the requirements of sections 35 of *The Election Act, 1996* and Part II of *The Election Act Regulations* Appendix describing the Form A ballot, except that:
 - i. the machine-readable ballots will be printed with unique timing marks to provide appropriate security features;
 - ii. the printer's name and address and printing aid impression will not be printed on the back of the ballot;
 - iii. all required information, including "instructions to vote", the constituency name and date of the election, will be printed on the front of the ballot; and
 - iv. the ballots will not be numbered consecutively, will not have a counterfoil and will not have stubs as they will not be stapled or stitched into booklets.

4. Section 59 – Examination and sealing of ballot boxes:

- a. For the purposes of section 59, before voting begins, the special election officer will show the ballot box to those present in the polling place so that they may see that it is empty.
- b. The ballot box will be sealed using seals prescribed by the Chief Electoral Officer. The ballot box will be covered by the vote counting equipment so that ballots fed into the vote counter will automatically be deposited into the ballot box.
- c. The ballot box will be situated under the vote counting equipment in a manner so that it is raised above the floor in full view of all present.

5. Section 63 - Who is entitled to be in polling place and at counting of votes:

For the purposes of section 63, any special election officer position appointed by the Chief Electoral Officer to operate vote counting equipment is entitled to be present in the polling place during the time that the polling place remains open for voting and at the counting of votes.

6. Section 73 – Giving ballot paper:

For purposes of subsection 73(2), machine-readable ballot papers will not be folded, but rather will be inserted into a secrecy sleeve by the voter.

7. Section 74 – Marking ballot:

- a. For purposes of subsection 74(3), machine-readable ballot papers will not be folded by the voter, but rather will be inserted into a secrecy sleeve and fed into the vote counting equipment before being deposited into the ballot box.

- b. For purposes of subsection 74(3) & (4), after marking his or her ballot the voter will place the marked ballot in the secrecy sleeve provided, leave the voting station and deliver their marked ballot to the special election officer who is operating the vote counting equipment.
- c. The special election officer will feed the voters marked ballot into the vote counting equipment while it is still in the secrecy sleeve causing it to be counted and deposited into the ballot box.

8. Section 75 – Examination and deposit of ballot:

- a. For greater clarity, the voter's marked ballot paper will be placed into a secrecy sleeve by the voter before the voter leaves the voting station.
- b. After leaving the voting station, the voter will deliver their marked ballot to the special election officer who is operating the vote counting equipment and not to the deputy returning officer who issued the ballot to the voter.
- c. The special election officer will examine the deputy returning officer's initials on the ballot paper before feeding it into the vote counting equipment.
- d. The ballot paper will not have a counterfoil.

9. Section 77 – Voter may request assistance in marking ballot:

- a. For purposes of subsection 77(3), a deputy returning officer who assists a voter to mark their ballot inside or outside the voting station will immediately place the marked ballot in a secrecy sleeve to ensure the marked ballot is not visible to others present inside or outside the polling place.
- b. The voter's marked ballot will be delivered by the voter, the deputy returning officer or the voter's friend who is accompanying the voter to the special election officer who is operating the vote counting equipment.
- c. For purposes of subsection 77(7) and subsection 78(6), the deputy returning officer will record remarks in the electronic poll book.

10. Section 80 – Ballots to be kept in polling place (declined ballots):

- a. In situations where a voter takes their ballot paper out of the polling place and where the voter returns their ballot paper to the deputy returning officer declining to vote, the voter's ballot will be marked as "declined". In addition, where the special election officer operating the vote counting equipment returns a ballot to a voter that is unmarked or has been marked in such a manner that it is unreadable by the vote counting equipment and the voter declines to mark their original ballot or re-mark a replacement ballot, the voter's ballot will be marked as "declined" if it is not inserted into the vote counting equipment but will be recorded as "rejected" should it be inserted into the vote counting equipment.

11. Section 81 - Voting outside the polling place:

- a. For purposes of subsection 81(3), unused ballot papers and the ballot box will be left inside the polling place in the custody of a supervisory deputy returning officer, information officer or special election officer rather than the poll clerk.

- b. Reference to a pencil should read “marking device”.
- c. For purposes of subsection 81(5), once the voter has marked a ballot paper outside the polling place, the deputy returning officer will place the voter’s marked ballot in a secrecy sleeve and deliver it to the special election officer who is operating the vote counting equipment. The special election officer will feed the marked ballot into the vote counting equipment.

12. Section 84 – When voting is deemed to be done:

For greater clarity, under subsection 84(2) a voter who delivers his or her ballot to the special election officer who is operating vote counting equipment may be given the opportunity to mark their original ballot if it is determined to be unmarked or to remark a replacement ballot if the original ballot issued has been marked in such a manner that it is unreadable by the vote counting equipment.

13. Section 134 – Sealing ballot box after close of advance poll:

For purposes of section 134, the special election officer who is operating the vote counting equipment (or the deputy returning officer) will secure the ballot box and the vote counting equipment at the end of every day during the polling period. The special election officer who is operating the vote counting equipment (or the deputy returning officer) will also remove all ballots from the vote counting equipment at the end of every day during the polling period and securely store them throughout the remainder of the polling period.

14. Section 135 – Procedures on the close of advance poll:

For the purposes of section 135, vote counting equipment will remain in the polling location after the first five days of voting so that it can be used for the final day of voting in that same location.

15. Section 141 – Preliminary count after close of polls on polling day:

- a. For the purposes of subsections 141(10) & (11), the ballot boxes from polling period polls will not be opened by the deputy returning officer after the close of polls on the final day of the polling period. Ballots which have been deposited into a ballot box through the vote counting equipment will be counted by the special election officer in the polling location at the end of voting on the final day of voting according to the closing procedures for conducting an automated vote count.
- b. Subsections 141(12), (13), (14) & (15) will not apply to a poll where vote counting equipment is used. Ballots that could not be read by the vote counting equipment will be marked as spoiled and placed in a spoiled ballot envelope. The voter will be offered a replacement ballot to mark. However, if a voter indicates that they want their unreadable ballot to be cast, then it will be deposited into the ballot box.
- c. The oath or declaration referred to in subsection 141(19) will be administered by the deputy returning officer to the special election officer who has operated the vote counting equipment.

- d. For the purpose of subsection 141(20), clauses (a) and (b) do not apply.

16. Section 142 – What are rejected ballots:

- a. For the purpose of s. 142, vote counting equipment will be programmed to only count validly cast ballots. The following ballots will not be read by the vote counting equipment:
 - i. Ballot papers which have not been initialed by the deputy returning officer;
 - ii. Ballot papers that have been marked for more than one candidate;
 - iii. Ballot papers on which no vote has been marked for a candidate;
 - iv. Ballots where the vote counting equipment could not determine whether a valid vote had been cast (ambiguous mark).
- b. Ballot papers that have not been initialed by the deputy returning officer, ballot papers that have been marked for more than one candidate, ballot papers that have not been marked for a candidate, and other improperly marked ballot papers that cannot be read by the vote counting equipment will be returned to the special election officer operating the vote counting equipment.
- c. A returned ballot paper that does not bear the initials of the deputy returning officer will be taken by the special election officer to the deputy returning officer to verify that it was issued by the deputy returning officer and, if so, it will be initialed by the deputy returning officer and re-fed into the vote counting equipment to be read.
- d. A ballot paper that does not record a vote will be marked as spoiled and the voter will be given the opportunity to mark a replacement ballot. If the voter agrees to mark a replacement ballot, their unreadable ballot will be marked as “spoiled”. If the voter declines to mark a replacement ballot, the previous ballot will be deposited into the ballot box and considered to be a rejected ballot.
- e. Subsections 142(2), (3), (4), & (5) do not apply.

17. Section 143 – Returning officer to receive and deal with ballot boxes:

References to “ballot box” in s. 143 will include “vote counting equipment”.

18. Section 171 – Return to writ of election

As a result of process and procedure changes introduced by this Directive as well as CEO Directive 2023-001, which introduces a polling period, certain changes will be required to be made to Form D *Return to the Writ, Statement of Returning Officer respecting Votes Cast and Ballot Papers Used at the Polling Places*. Form D will continue to set out the name of the candidate elected as a member.