

Piikani Nation Chief and Council

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Piikani Nation Community Update from Chief and Council Amendments to Election Bylaw and Election Regulations October 31, 2022

On September 13, 2022, Piikani Nation Chief and Council enacted revisions to the *Piikani Nation Election Bylaw, 2002*, and on October 4, 2022, Council enacted revisions to the *Piikani Nation Election Regulations, 2002*. Band council resolutions approving those revisions were posted to the Piikani Nation website shortly after they were enacted.

Summary

The revisions made to the Election Bylaw and Regulations were made to ensure that our elections legislation is clear, transparent and up-to-date. These changes will, among other things:

- Ensure there is no campaigning at polling stations or using recording devices at polling stations
- Ensure that candidates do not have a criminal conviction in the last five years
- Ensure that candidates have not been recently bankrupt, do not owe money to Piikani Nation and are not suing Piikani Nation
- Protect member privacy by making the electoral list available only for viewing, and not posting

There are a number of other changes as well. We encourage members to read the memorandum attached that sets out a more complete summary.

The *Consolidated Piikani Nation Election Bylaw, 2002* and *Consolidated Piikani Nation Election Regulations, 2002* is available on the Piikani Nation website at <https://piikanation.com/piikani-nation-legal/>.

Questions about this matter may be directed to Corbin Provost, Chief Operating Officer, at corbin.provost@piikanation.com or (403) 965-3940.

Council thought it would be helpful to provide members with a summary of the changes made. Please note this is only a summary and is not to be viewed as a complete list of all changes made. The specific provisions set out in the *Piikani Nation Election Bylaw, 2002* and *Piikani Nation Election Regulations, 2002*, both as amended, will govern the upcoming election in January 2023.

What kinds of changes have been approved by Council?

There are different categories. Some changes were enacted to ensure that our elections continue to run as smoothly as possible, such as a prohibition against campaigning at the polling places, and provisions related to advance polls and electronic ballot counting.

Other changes update the Bylaw and Regulations to ensure that they apply to our current environment, particularly social media. For example, no one is permitted to have a camera or other recording device in the voting compartments or at the polling places.

Other changes are more substantive in nature. For example, the eligibility criteria for individuals who wish to run for office have been expanded to include, in part, the following:

- A candidate cannot have been convicted of an indictable offence during a five year period prior to the election date, unless the candidate reasonably argued that they were exercising an aboriginal right. (Aboriginal rights mean our collective inherent rights which flow from our continued use and occupation of our territory, and which we have practiced and enjoyed since before European contact, including rights to our land, rights to subsistence resources and activities, and the right to practice one's own culture.)
- A candidate cannot have been convicted of an offence involving theft, fraud, misrepresentation, bribery, breach of trust or other similar offence during a five year period prior to the election date.
- A candidate cannot owe money to Piikani Nation or its entities. If a candidate does owe money, they must have entered into a written agreement to repay those monies and have not failed to make any payments required by that agreement within the 90 days prior of the nomination meeting.
- A candidate cannot have filed for bankruptcy. If the candidate has filed for bankruptcy, they must have been discharged from bankruptcy for a period of at least two years prior to becoming a candidate.
- A candidate cannot have commenced a lawsuit or some other form of legal proceedings against Piikani Nation or its entities, which proceedings have not been concluded, settled or dismissed.
- A candidate cannot have a civil judgment or restitution order against them in favour of Piikani Nation or its entities that has not been fully paid or satisfied.
- A candidate cannot have been in breach of the Bylaw or the Regulations during a five year period prior to the election date.

These changes are in part meant to ensure that candidates do not have a recent criminal record for offences that are based on monetary offences or breach of trust. They also ensure that a member who is suing Piikani Nation or its entities, or who owes money to Piikani Nation or its entities, is

not put in a position where they would have any control over how that lawsuit or debt is handled by Piikani Nation or the affected entity.

A related change is that the office of Chief or Councillor becomes vacant when the person holding that office is convicted of an offence involving theft, fraud, misrepresentation, bribery, breach of trust or something similar.

A qualification has been added so that a person cannot be appointed Chief Electoral Officer, Deputy Electoral Officer, Scrutineer, Interpreter or Agent if they have been found in breach of the Bylaw or Regulations within the five years prior to when they would otherwise be appointed.

Changes have also been made to preserve member privacy. The list of eligible voters will no longer be posted. Instead, it will be made available for review by a member who is 21 years old or over to determine that their name is on the list of eligible voters. In the event that their name is missing, a member may apply to the Chief Electoral Officer to have their name added.

Finally, there have been changes to nominations. Nomination fees have been increased as a result of the significant costs to hold an election. Nominations fees are now \$750 for the office of Chief and \$500 for the office of Councillor, which fees must be paid at the time of the nomination and which are non-refundable. Also, in addition to providing a criminal record check, nominees must provide a criminal record check consent form to enable the Chief Electoral Officer to run an updated criminal record check if needed.

Were any changes made to the election appeals process?

Yes. There have been appeals after each election. Each appeal costs a significant amount of money, and most of the appeals filed have not had any merit. To cut down on the cost of appeals, Council made the following changes:

- Members of the Election Appeals Board may now be Piikani members, or of Blackfoot origin. Council removed the requirement that members of the Election Appeals Board cannot be Piikani and must be Blackfoot.
- The timeline to file an appeal is now 14 days from the election date.
- The fee to file an appeal is now \$500, which is non-refundable.
- The determination to be made by the Election Appeals Board was clarified to ensure consistency and that specific factors are taken into consideration as part of its determination, including (a) the purpose of the Bylaw and Regulations; (b) the evidence and submissions of the appellant and any respondents, including any in writing; and (c) past practices and decision of the Election Appeals Board.

The Election Appeals Board still cannot hear any appeals with respect to the eligibility of candidates. We have also added that the removal of any person from the polling places or ballot count for breach of the Bylaw or Regulations also cannot be appealed to the Election Appeals Board.

Were any changes made to the removal appeals process?

Yes. Changes were required as a result of the most recent removal appeals process. The main changes are:

- Timelines were clarified to resolve a conflict between provisions in the Bylaw and Regulations.
- Timelines were also lengthened to permit sufficient reasonable notice of a Removal Appeals Board hearing.
- The determination to be made by the Removal Appeals Board was clarified to ensure consistency and that the focus of any removal appeal process is whether or not the respondent to a petition has failed to meet the standard of conduct expected of a Chief or Councillor, and to ensure that specific factors are taken into consideration as part of that determination, including (a) the grounds set out in the Bylaw as part of the standard expected of a Chief or Councillor; (b) the principles of *Piikanissini*; (c) the purpose of the Bylaw and Regulations; (d) the evidence and submissions of the petitioner and the respondent, including any in writing; (e) past practices and decisions of the Removal Appeals Board; and (f) the potential impact of the decision on Piikani Nation and its members.
- Members of the Removal Appeals Board may now be Piikani members, or of Blackfoot origin. Council removed the requirement that members of the Removal Appeals Board cannot be Piikani and must be Blackfoot.

Was a referendum required to approve these changes?

Under section 15.01 of the Bylaw, Council is permitted to amend most of the Bylaw and Regulations by Band Council Resolution, provided that any such amendment is enacted not less than 3 months prior to the date set for the election.

Under section 15.02 of the Bylaw, the following sections are only permitted to be amended after approval of a majority of eligible voters by petition, or after approval by a majority of eligible voters who vote in a referendum called to approve the amendments:

- 2.01 – composition of Council being one Chief and eight Councillors
- 5.01 – one electoral district, being Piikani Indian Reserve Number 147 and 147B in Alberta
- 6.01 – provided that they are not otherwise disqualified by the Bylaw, all Piikani members 21 years old or over are eligible to hold office as Chief or Councillor
- 7.01 – any registered Piikani member who is 21 years of age or over as of election day may vote at the election, provided that the member is on the list of voters prepared by the Chief Electoral Officer
- 8.01 – Council is elected for a four-year term
- 15.01 – Council may amend the Bylaw and Regulations by BCR, except for the sections set out in section 15.02, provided that any such amendment is enacted not less than 3 months prior to the election

No changes were made to these sections of the Bylaw that require a referendum to be amended.

As noted above, the purpose of the changes enacted by Council was largely administrative, with other changes being made to modernize the Bylaw and Regulations and bring them up to date.

Council carefully reviewed what was required to enact the necessary amendments, and can advise that the amendments do not contravene the provisions listed above.

Will a version of the Bylaw and Regulations with all of the changes be made available to members?

The *Consolidated Piikani Nation Election Bylaw, 2002* and *Consolidated Piikani Nation Election Regulations, 2002* is available on the Piikani Nation website at <https://piikanination.com/piikani-nation-legal/>.

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