

**Comparison chart:**

**Elections under the *Indian Act***

**vs.**

**Elections under the *First Nations Elections Act***

**vs.**

**Elections under Custom Election Law**

	<i>Indian Act</i>	<i>First Nations Election Act</i>	Custom Election Law
<b>How to Opt-In</b>	At the discretion of the Minister of Indigenous Services should they deem it advisable	<p>A First Nation council can request to come under the act by adopting a band council resolution</p> <p>The Minister of Indigenous Services may bring the First Nation under the act following a leadership dispute or finding of corrupt practices</p>	<p>As set out in the Custom Election Law</p> <p>Must be approved by a majority of the community (50%+1)</p>
<b>Term of Office</b>	2 years	4 years	<p>As set out in the Custom Election Law</p> <p>Option of staggered terms</p> <p>Option to change term limit</p> <p>Option to provide for a maximum # of Terms in Office</p>

	<b>Indian Act</b>	<b>First Nations Election Act</b>	<b>Custom Election Law</b>
<b>Same Election Day for Multiple First Nations</b>	Not included in the Act	6 or more FNs can hold their elections on the same day and coordinate the same terms of office	Possibility for multiple bands to enact with common election days.
<b>Number of Council Members</b>	One chief and one councillor for every 100 members of the First Nation.  The Minister of Indigenous Services can authorize a different number.	One chief and one councillor for every 100 members of the First Nation (a minimum of two and maximum of twelve councillors)  The band council can decide by resolution to reduce the number of councillor positions	As set out in the Custom Election Law  May have more than 1 Chief  May have rules allowing for Council portfolios, better family representation, or on/off reserve representation
<b>Election Period</b>	Minimum of 79 days	Minimum of 65 days	As set out in the Custom Election Law
<b>Rules and Procedures for Nominations</b>	A voter can nominate a candidate in writing before the nomination meeting or in person at the meeting	A voter can nominate a candidate in writing prior to the nomination meeting or in person by speaking at the meeting  A person can be a candidate for only one position in the election  A person cannot nominate more candidates than there are positions to be filled at the election  A First Nation may impose a fee of up to \$250 on each candidate that will be	As set out in the Custom Election Law  Self-nomination?  # Nominations allowed?  Nomination Fees?  Standardized Form used?  Running for both Chief and Councilor positions?

	<b>Indian Act</b>	<b>First Nations Election Act</b>	<b>Custom Election Law</b>
		refunded if the candidate receives more than 5 per cent of the total votes cast	
<b>Acceptance of Nominations</b>	<p>Candidates and their names are included on the ballot</p> <p>Candidates may withdraw in writing if they do not wish to accept the nomination</p>	To be included on the ballot and become a candidate, persons nominated must submit a written declaration and acceptance of the nomination and if applicable, the candidacy fee	<p>As set out in the Custom Election Law</p> <p>Deposit required?</p> <p>Declaration that the nominee meets all of the eligibility criteria?</p>
<b>Qualifications to Vote</b>	Eligible voters must be a member of the First Nation and be at least 18 years of age on the election day	Eligible voters must be a member of the First Nation and be at least 18 years of age on the election day	<p>As set out in the Custom Election Law</p> <p>Increasing to above 18 years old may violate <i>Charter</i></p> <p>Lowering age below 18 may be acceptable</p>
<b>Mail-In Ballots</b>	<p>The electoral officer sends a mail-in ballot to all off-reserve voters whose addresses appear on the list provided by the First Nation</p> <p>The electoral responds to specific requests for mail-in ballot until the election day</p>	<p>Members wishing to vote by mail-in ballot must provide a written request to the electoral officer along with a photocopy of an identification document</p> <p>The electoral officer will send mail-in ballot packages to all the voters whose request is received up to six days before the election</p>	<p>As set out in the Custom Election law</p> <p>Mail-In to everyone? OR only by request?</p> <p>In-Person – polling hours determined by Band</p> <p>Electronic Voting</p>

	<b>Indian Act</b>	<b>First Nations Election Act</b>	<b>Custom Election Law</b>
<b>Advance Polls</b>	Not Included in the Act	The electoral officer may hold advance polls between 5 and 10 days before the election, on and off reserve	As set out in the Custom Election Law  Advance poll ballots must remain secure
<b>Recount</b>	Not Included in the Act	If the margin of votes between a winning candidate and one or more runners-up is five or fewer, the electoral officer must recount the ballots for these candidates	As set out in the Custom Election Law  Including a recount provision can decrease the need for an Appeal based on close election count
<b>Removal from Office</b>	A person ceases to hold office when they die, resign, or are convicted of an indictable offence  The Minister of Indigenous Services may remove a person from office for having committed corrupt practices in connection with an election or for missing three consecutive meetings of council without authorization from the council	A person ceases to hold office when they die, resign, or are convicted of an indictable offence (the conviction must be accompanied by a prison sentence of greater than 30 consecutive days for the person to lose their position)  <b>The Minister has no power to remove elected officials</b>	As set out in the Custom Election Law  Procedural Fairness important  Council disciplinary hearings  Disciplinary Committee
<b>Appeals</b>	Are directed towards the Minister of Indigenous Services who may conduct an	Are directed to provincial or federal courts, which can, after hearing	Can use Federal Court, or Supreme Court

	<i>Indian Act</i>	<i>First Nations Election Act</i>	<i>Custom Election Law</i>
	<p>investigation and report findings to the Governor in Council</p> <p>The Governor in Council may set aside the election on the report of the Minister</p>	evidence, set aside an election	<p>Can have own Adjudication Process paid for by Band</p> <p>Can set own timeframe for appeals to be filed</p> <p>If Custom Election Law sets out an appeal mechanism, then appeals must follow that process before proceeding to Court</p> <p>If no appeals process, Federal Court may be the only option</p>
<b>Opting Out</b>	Not Included in the Act	The First Nation must develop a community election code which must be approved by the majority of votes cast through a secret ballot in which at least 50 per cent of all the voters of the First Nation participate	<p><b>Cannot</b> return to Indian Act</p> <p>Can amend the Custom Election Law</p> <p>Council may submit a BC to move under the FNEA</p>