

POLICY FOR THE CONDUCT OF IN-PERSON VOTES

BACKGROUND

On March 16, 2020, the Board closed its offices to the public and moved staff to working from home in order to eliminate the risk of transmission of COVID-19.

At all times, the Board maintained service delivery with three key modifications:

- Hearings, mediations, settlement conferences, informal dispute resolution processes, case management, drop-ins, and meetings (“In-Person Proceedings”) have been conducted using virtual platforms;
- Staff are working from home. A limited number of staff attend at the Board’s Vancouver premises to perform functions that cannot be done remotely; and
- The Board also ceased conducting In-Person Votes. Until June 8, 2020, the Board relied exclusively on mail votes given the exceptional circumstances. Since June 8, 2020, the Board has carried out a number of online electronic votes, with only a few mail votes conducted.

The Board’s return to In-Person Votes will be measured, thoughtful, and gradual. This Policy is informed by the orders and recommendations of the Provincial Health Officer, the BC Centre for Disease Control, and WorkSafe BC (collectively “Safe Operating Requirements” or “SORs”).

This Policy is subject to revision, including in order to respond to changes in SORs or the Board’s own experience in administering it.

POLICY OBJECTIVES

It is in the public interest that the Board build In-Person Votes into its Restart Plan. BC’s Restart Plan anticipates that current, and future, SORs will be in place for some time and, specifically, until at least one of the following conditions occurs: wide vaccination, community immunity, and/or broad successful treatments.

It is in the public interest that the Board protect the health of its staff and members of the public with whom they interact. In-Person Votes will only be conducted where they can be done safely and in accordance with SORs and be conducted within 5 business days

NATURE OF THE RISK

COVID-19 is a highly contagious virus that can lead to severe illness and death. It has the following characteristics that inform the protocols in this Policy:

- A person may be asymptomatic but may be infectious;
- The virus spreads in several ways, such as droplets when a person coughs or sneezes. It can also spread if you touch a contaminated surface and then touch your face;
- The risk of person-to-person transmission increases the closer you come to other people, the more time you spend near them, and the more people you come near; and
- The risk of surface transmission increases when many people contact the same surface and when those contacts happen over short periods of time.

The risk of transmission at an In-Person Vote is high. In-Person Votes are generally conducted by a Board (Deputy) Returning Officer (“Officer”) at an employer’s worksite. The characteristics of the physical space include:

- Highly variable workplaces that are outside the Board’s control in terms of existing protocols and layout;
- Many workplaces have a combination of persons physically present at the worksite and persons working from home;
- Boardrooms, staff rooms, and unused secluded spaces;
- Most spaces have room for more than a few people who are required to gather in close proximity to one another;
- Employees are required to line up to wait their turn to vote;
- Officers are routinely required to rearrange furniture, boxes and other clutter in order to create an appropriate environment to permit a vote to take place in private;
- Employees and Officers are required to transit through active work environments to reach the physical space that is available to conduct the vote.

The characteristics of the services provided include:

- The number of persons attending an In-Person Vote is variable and dependant upon the size of the bargaining unit involved and shift schedules of the employees;
- Votes are conducted in the presence of scrutineers representing the various parties to the application (“Scrutineers”);

- Votes can occur at any time of day. Polls are often scheduled at multiple times throughout the day to give employees a reasonable opportunity to vote;
- Paper ballots and pencils are exchanged between Officers and employees who are voting. Employees place their ballot in a ballot box. Officers empty the ballot box and count the ballots, often at the conclusion of the vote and often in the presence of the Scrutineers.

RISK MODIFICATION

Risk modification, but not elimination, can be achieved in four ways.

1. Physical distancing and occupancy limits to reduce the density of people by:
 - a. Directional flow signage, including floor decals and posters;
 - b. Standing markers that establish safe distances between voters, between voters and Scrutineers and between voters and Scrutineers and Officer;
 - c. Limiting the number of people permitted to be in the voting room taking into account the size of the room (and the hallways leading to the voting location) and the ability of employees to maintain physical distance while waiting to vote.
2. Engineering controls put in place by an employer prior to the arrival of the Officer and voters, including:
 - a. Reconfiguring furniture in rooms (removing excess seating and tables, boxes and other clutter) to establish occupancy limit and social distancing in the voting location;
 - b. Reconfiguring travel routes that Officers and voters will have to take to ensure to establish social distancing to access to the vote location.
3. Administrative controls such as the rules and guidelines set out in this Policy and the Illness Policy.
4. The Board will provide Officers with personal protective equipment (PPE) such as non-medical masks, face shields, gloves, hand sanitizing gels, disinfecting wipes and plexiglass barriers. The employer, the union, and/or the representative for certain employees, must provide PPE, in particular, gloves and non-medical masks to their Scrutineers.

POLICY RULES AND GUIDELINES

(1) Online Electronic Voting Is the Default

Online electronic voting will be the Board's default way to conduct votes as an alternative to In-Person Votes and Mail Votes as it is the only available means of eliminating the risk of transmission and conducting a vote in a timely manner.

Where an online vote is not possible, Mail Votes will be considered the next best alternative, as the risk of transmission via a mail ballot is low.

(2) Requesting an In-Person Vote

On its own motion, or at the request of a party, the Board may consider conducting an In-Person Vote where it can be done safely and in accordance with this Policy.

A party requesting an In-Person Vote (the "Party") must, together with its request, provide particulars as to why they say an In-Person Vote should be conducted notwithstanding the risks identified in this Policy, as well as a what measures can be put in place, in as much detail as is available to the Party at the time of the request, to modify those risks.

(3) Assessing Whether an In-Person Vote is Appropriate

The request for an In-Person Vote will be forwarded to the Officer and the Registrar.

The Registrar, Officer, or Vice-Chair assigned may, at any time, determine that an In-Person Vote cannot be done safely and in accordance with the Code.

On being advised by the Board that the Party is requesting an In-Person Vote, the Officer will contact the employer who, in addition to the information required to provide to the Officer under the Code, must also be ready to provide additional, detailed information to assess the feasibility of conducting an In-Person Vote, including:

1. Specific details of the Officer's proposed walking route to enter the worksite to conduct the vote;
2. How the employer will minimize the distance the Officer must travel in the workplace to arrive at the voting location. The route must be capable of ensuring that the Officer is able to maintain a social distance of at least six (6) feet from others;

3. Specific details of layout of the vote location that demonstrates an ability to maintain social distancing of a minimum of six (6) feet between individuals attending to participate in the vote, including within the voting area and the areas for lining up to vote;
4. A roughly measured floor plan of the vote location and any routes leading to the vote location. Any voting space must be capable of providing social distancing of at least six (6) feet between the Officer, the Scrutineers, and voters;
5. Photographs and/or videos of the vote location and any routes leading to the vote location;
6. A copy of the existing SORs in place at the worksite or vote location, including but not limited to:
 - a. Illness policies for individuals in that location;
 - b. Maximum occupancy limits for the rooms proposed for the In-Person Vote;
 - c. Availability of first aid attendants;
 - d. Location and availability of sanitizing gel stations, disinfecting wipes, washrooms, and building cleaning schedules;
 - e. Whether there are enough gloves and non-surgical masks available for each person involved in the staging of the vote location and for each voter;
 - f. Existence of signage, including directional flow and social distancing;
 - g. Any other information requested by the Officer or any other Board staff.
7. Confirmation of the means by which this Policy and the Board's Illness Policy (attached) will be circulated to those who may be attending the vote.

Prior to the vote, all of the parties to the application must provide the Officer with:

1. A list of the names and contact information for the person attending the vote as a representative of the party or who assists in setting up the voting location, who is not already listed on the Voters List;
2. An acknowledgement that all of the parties to the application who are attending the vote, and all participants attending on their behalf, have read, understood, and will comply with this Policy and the Board's Illness Policy;
3. Acknowledgement that, as a result of changing or unforeseen circumstances, the In-Person Vote may be cancelled or postponed at any time;
4. Acknowledgement that a breach of this Policy or the Board's Illness Policy will result in the immediate suspension of the vote, with the issues giving rise to the

suspension of the vote to be addressed before a Vice-Chair of the Board using a virtual process;

If, on attending the worksite, the Officer determines that the location was not accurately described on the plan or that it is unsafe to conduct the vote as ordered having regard to the physical premises and the number of voters, the Officer will first explore alternatives with the employer and the union. If there is a delay in the start of the vote, the Officer may adjust the end time of the vote to ensure that the same amount of time to vote is maintained.

If there is no alternative location that is safe, as determined by the Officer, they will contact the Vice-Chair who ordered the In-Person Vote to explain any concerns, so that further orders regarding the vote can be made, if necessary, after hearing from the parties.

(4) Conduct of the Vote

1. Prior to commencing the vote, the Officer will establish maximum occupancy limits for the number of persons allowed in the voting room based on size and configuration and set the appropriate layout in their discretion.
2. Voters and Scrutineers must comply with all directions of the Officer and all signage posted by the Officer.
3. If an employee or Scrutineer presents at the vote appearing to be sick, the Officer may stop the vote and instruct the voter or Scrutineer to leave.
4. Each participant at the vote must:
 - Confirm that they have read, understand, and state that they are not prohibited from attending at the vote under the Board's Illness Policy;
 - Prior to voting wash/sanitize their hands using appropriate cleaning practices;
 - Cough or sneeze into their arm, and wash their hands;
 - Refrain from touching their face;
 - Maintain a minimum two metre distance between all people at all times;
 - Refrain from exchanging any pens;
 - Wait at a spot indicated by the Officer for their turn to vote. If no spots are available, they must remove themselves from the area to a location where they can maintain social distance until a spot is available;

- Comply with all Board and building signage, including a maximum occupancy for elevators; and
- Comply with any other requirements the Board may identify.

5. Scrutineers must wear a mask during the conduct of the vote.

Any issues arising from the Officer's direction can be subsequently addressed by the Vice-Chair at the request of a party; but, in the event the Officer determines it is safe to complete the voting process, such request shall not delay the conduct of the vote.

(5) After the Vote

If any party to the application is advised that a person who attended an In-Person Vote:

- i) has COVID-19 or COVID-19-like symptoms as set out in the Board's Illness Policy;
- ii) within 14 days of the conduct of the vote was confirmed positive for COVID-19 or was not tested but advised by a health professional to self-isolate;
- iii) travelled internationally within the 14-day period preceding the vote; or
- iv) lives in the same household as a confirmed or clinical COVID-19 case who is self-isolating

that party shall immediately advise the Board and cooperate with the Board and any public health officials.