

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

NISGA'A LISIMS GOVERNMENT

NISGA'A LISIMS GOVERNMENT EXECUTIVE

**NISGA'A ELECTIONS DISPUTE
RESOLUTION REGULATION**

made under the

NISGA'A ELECTIONS ACT

**UNOFFICIAL CONSOLIDATION
CURRENT TO FEBRUARY 22, 2012**

TABLE OF CONTENTS

1. Definitions4

2. Application4

PART 1 – SECTIONS 12 AND 19 OF THE ACT5

3. Application and definitions5

4. Filing a complaint.....5

5. Summary hearing of jurisdictional issue.....6

6. Conduct of review6

7. Panel determination and order.....7

PART 2 – SECTION 30 OF THE ACT8

8. Application and definitions8

9. Filing a complaint.....8

10. Conduct of review9

11. Panel determination and order.....9

12. Communication of order.....10

PART 3 – SECTION 62 OF THE ACT11

13. Application and definitions11

14. Filing an application for election recount11

15. Filing an application for referendum recount12

16. Conduct of application12

17. Panel determination and order.....12

18. Recount requirements.....13

19. Time, date and location of recount.....13

20. Conduct of recount13

21. Delivery of voting materials to place of recount14

22. Recount procedure14

23. Delivery of voting materials on completion of recount15

PART 4 – SECTION 67 OF THE ACT16

24. Application and definitions16

25. Filing an application.....16

26. Submission of election or referendum records17

27. Summary hearing of jurisdictional issue.....18

28. Conduct of application18

29. Panel determinations and order19

PART 5 – GENERAL.....21

30. Practice and procedure21

31. Summary hearing on jurisdictional issue21

32. Authority of panel of the board21

33. Filings and delivery of notices.....22

34. Authority to extend or shorten time periods23

35. Calculation of time24

36. Application of *Nisga'a Administrative Decisions Review Act*24

37. Repeal and replacement.....24

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

FORM ONE25

FORM TWO27

FORM THREE29

FORM FOUR.....31

FORM FOUR B.....34

FORM FIVE36

FORM SIX38

FORM SEVEN.....41

Definitions

1. (1) In this Regulation, unless specified otherwise, terms used have the same meaning as in the *Nisga'a Elections Act*.
- (2) In this Regulation:
 - “**Act**” means the *Nisga'a Elections Act*;
 - “**board**” means the Nisga'a Administrative Decisions Review Board;
 - “**chairperson**” means the chairperson of the board.

Application

2. This Regulation applies to requests for review and applications to the board that are authorized under the Act.

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

PART 1 – SECTIONS 12 AND 19 OF THE ACT**Application and definitions**

3. (1) This Part applies to a request for review of a decision permitted under section 12(1) or (2) of the Act or under section 19(1) or (2) of the Act.
- (2) In this Part:
- “**complainant**” means the person who has filed a complaint in accordance with section 4;
- “**complaint**” means a complaint filed in accordance with section 4;
- “**party to the review**” means the complainant, the respondent, if any, or the Nisga’a Elections Officer;
- “**respondent**” means, in the case of a review
- (a) under section 12(1) or (2) of the Act, the person whose right to be included on the preliminary list of voters is the subject of the complaint, if that person is not the complainant, or
- (b) under section 19(2) of the Act, the person who has been determined by the Nisga’a Elections Officer to be qualified to stand for an elected office to be filled in an election;
- “**review**” means the review of a decision requested in accordance with this Part.

Filing a complaint

4. (1) A person requesting the review of a decision under section 12(1) or (2) of the Act must file a complaint in Form One of this Regulation.
- (2) A person requesting the review of a decision under section 19(1) of the Act must file a complaint in Form Two of this Regulation.
- (3) A person requesting the review of a decision under section 19(2) of the Act must file a complaint in Form Three of this Regulation.
- (4) As soon as practicable after receiving a complaint under subsections (1) to (3), the administrative review officer must deliver a copy of the complaint to
- (a) the Nisga’a Elections Officer, and

- (b) the respondent, if any.
- (5) Within two days after receiving a copy of a complaint under subsection (4), the Nisga'a Elections Officer must submit the following records respecting the disputed decision to the administrative review officer:
 - (a) any record of oral evidence received or relied upon;
 - (b) copies of any documentary evidence received or relied upon.

Summary hearing of jurisdictional issue

- 5. (1) At any time before a complaint filed under this Part is submitted to a panel of the board by the chairperson for consideration, the chairperson may, on the chairperson's own motion or on written request of the Nisga'a Elections Officer or a respondent, conduct a summary hearing as described in section 31 to make a ruling on a jurisdictional issue arising out of the complaint.
- (2) The chairperson's ruling in a summary hearing under subsection (1) is a final decision of the board.

Conduct of review

- 6. (1) The chairperson must establish a panel of the board to conduct a review as soon as practicable.
- (2) The chairperson must
 - (a) determine whether the review will be conducted on the basis of an oral hearing or written submissions,
 - (b) if an oral hearing is to be held, specify the date of the hearing, and
 - (c) if no oral hearing is to be held, specify the date by which written submissions may be filed.
- (3) The administrative review officer must give to the parties to the review
 - (a) notice of the chairperson's determination under subsection (2)(a),
 - (b) if an oral hearing is to be held, not less than three days notice of the time, date, and location of the oral hearing, and

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

- (c) if no oral hearing is to be held, not less than three days notice of the date by which a party to the review must file any written submissions with the administrative review officer.
- (4) Sections 3(7), 5(2)(a), 10(2) and (4) to (8), 11(3), 12, 14, 15, 16(2) and (6), 17(8) to (11) and 18(1) and (3) of the *Nisga'a Administrative Decisions Review Act*, each read with any changes required by the context, apply to the conduct of a review.
- (5) The panel of the board may receive and accept on oath or by affirmation, by affidavit or otherwise, evidence that the panel considers relevant and credible, whether or not the evidence would be admissible in a court of law.

Panel determination and order

- 7. (1) After conducting a review under section 12 of the Act, the panel of the board must make and set out in writing its determination and order under section 12(4) or (5) of the Act, as applicable.
- (2) After conducting a review under section 19 of the Act, the panel of the board must make and set out in writing its determination and order under section 19(4) or (5) of the Act, as applicable.
- (3) The determination and the order of the panel of the board under subsection (1) or (2) must be made as soon as practicable but, in any event, not later than two days
 - (a) after completion of the oral hearing, or
 - (b) if no oral hearing is held, after the date specified by the chairperson under section 6(2)(c) for filing written submissions.
- (4) Despite any other provision in this Regulation, the panel of the board conducting a review under section 19 of the Act must make its determination and order under section 19(5) of the Act not later than 35 days before the general voting day for the election in question.

PART 2 – SECTION 30 OF THE ACT**Application and definitions**

8. (1) This Part applies to a request for review of a ruling permitted under section 30(4) of the Act.
- (2) In this Part:
- “**complainant**” means the person who has filed a complaint in accordance with section 9;
- “**complaint**” means a complaint filed in accordance with section 9;
- “**review**” means the review of a ruling requested in accordance with this Part.

Filing a complaint

9. (1) A person requesting the review of a ruling made under section 30(3) of the Act must make an oral complaint to the administrative review officer as described in section 33(7) of this Regulation.
- (2) The administrative review officer must make a written record of the following information when a complaint is made under subsection (1):
- (a) the name of the complainant;
 - (b) the complainant’s Nisga’a citizenship number;
 - (c) the time when the complaint was received;
 - (d) the location and the telephone number where the complainant can be reached for purposes of conduct of the review;
 - (e) details of the ruling complained of, including
 - (i) the nature or substance of the ruling,
 - (ii) who made the ruling,
 - (iii) where and when the ruling was made, and
 - (iv) why the complainant believes that their right to vote has been denied.

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

- (3) The administrative review officer must notify the Nisga'a Elections Officer as soon as practicable
 - (a) that a complaint has been made, including the details recorded under subsection (2), and
 - (b) the time when the oral hearing under section 10(2) will be held.
- (4) On being notified of a complaint under subsection (3), the Nisga'a Elections Officer must advise the administrative review officer of the name of, and contact information for, the election official, if any, who will participate in the oral hearing under section 10(2).

Conduct of review

10. (1) As soon as practicable the chairperson must establish a panel of the board consisting of one board member to conduct the review.
- (2) The panel of the board must conduct the review as an oral hearing by telephone or using other communication facilities as described in section 30(2).
- (3) The panel of the board may receive and accept any evidence that the panel considers relevant and credible, whether or not the evidence would be admissible in a court of law.
- (4) If an election official does not present any evidence or make a submission in respect of the complaint in the oral hearing, the panel of the board may make an order under section 11(1) based solely on information provided by the complainant.
- (5) Sections 3(7), 5(2)(a), 10(4), 12, 14, 17(11) and 18(1) and (3) of the *Nisga'a Administrative Decisions Review Act*, each read with any changes required by the context, apply to the conduct of the review.

Panel determination and order

11. (1) Following conclusion of the oral hearing, the panel of the board must make its determination and order under section 30(6) of the Act.
- (2) Notice of the determination and the order of the panel of the board under subsection (1) must be given immediately to
 - (a) the complainant, and
 - (b) the election official who participated in the hearing or, if none participated, to the Nisga'a Elections Officer.

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

- (3) The determination and order made under subsection (1) is a final order of the board and takes effect immediately.
- (4) On written request of the Nisga'a Elections Officer or the complainant filed within two days after the making of the determination and order under subsection (1), the panel of the board must provide to the Nisga'a Elections Officer and the complainant, as soon as practicable, one or both of the following:
 - (a) written notice of the determination and the order made under subsection (1);
 - (b) written reasons for the determination and the order made under subsection (1).

Communication of order

- 12.** The election official who participated in the oral hearing or, if none participated, the Nisga'a Elections Officer must immediately communicate the determination and order made under section 11(1) to any election officials who are affected by that determination and order.

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

PART 3 – SECTION 62 OF THE ACT**Application and definitions**

13. (1) This Part applies to an application for a recount of votes as permitted in section 62 of the Act.

(2) In this Part:

“applicant” means the person who has filed an application in accordance with section 14(1) or 15(1), as the case may be;

“application” means an application filed in accordance with section 14(1) or 15(1), as the case may be;

“party to the application” means the applicant, a respondent or the Nisga’a Elections Officer;

“presiding chairperson” means the chairperson presiding over a recount;

“recount” means the recount conducted under this Part;

“respondent” means, in the case of an application respecting

- (a) an elected office in an election, a candidate for that elected office in that election,
- (b) a referendum of the Nisga’a Nation, the Chief Executive Officer, or
- (c) a referendum of a Nisga’a Village, the Chief Administrator of the relevant Nisga’a Village Government.

Filing an application for election recount

14. (1) A person requesting a recount of the votes for an elected office in an election

(a) under section 62(1) of the Act must file an application in Form Four of this Regulation with the administrative review officer, or

(b) under section 62(1.1)

(2) The administrative review officer must deliver a copy of the application filed under subsection (1) as soon as practicable to the Nisga’a Elections Officer and to the respondent or respondents, as the case may be.

Filing an application for referendum recount

15. (1) A person requesting a recount of the votes in a referendum under section 62(3) of the Act must file an application in Form Five of this Regulation with the administrative review officer.
- (2) The administrative review officer must deliver a copy of the application filed under subsection (1) as soon as practicable to the Nisga'a Elections Officer and to the respondent.

Conduct of application

16. (1) This section applies to an application made under section 14(1)(a) or 15.
- (1.1) The board must conduct the hearing of an application by written submissions.
- (2) As soon as practicable after receipt by the administrative review officer of an application, the chairperson must specify a date, not later than three days after the administrative review officer received the application, by which written submissions may be filed.
- (3) The administrative review officer must give the parties to the application notice of the date specified by the chairperson under subsection (2) for the filing of written submissions with the administrative review officer.
- (4) The chairperson must appoint a panel of the board consisting of the chairperson and two other board members to consider the application.
- (5) The panel of the board must make a summary determination of the application after taking into consideration the following:
- (a) the application and the documents filed with the application;
- (b) any written submissions received from the parties to the application by the date specified by the chairperson under subsection (2).
- (6) Sections 3(7), 5(2)(a), 10(4) to (8), 12, 14, 17(6) to (11) and 18(1) and (3) of the *Nisga'a Administrative Decisions Review Act*, each with any changes required by the context, apply to the conduct of the application.

Panel determination and order

17. (1) After considering the information described in section 16(5), the panel of the board must make and set out in writing

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

- (a) its summary determination of the application for a recount under section 62(1) or (3) of the Act, as applicable, and
 - (b) its order under section 62(5) of the Act.
- (2) The summary determination and the order of the panel of the board under subsection (1) must be made as soon as practicable but, in any event, not later than two days after the date specified by the chairperson in section 16(2) for filing written submissions.

Recount requirements

18. (1) If a recount of the votes for an elected office in an election or a recount of the votes in a referendum, as the case may be, is to be conducted under section 62(5)(a) of the Act, the board must conduct the recount in accordance with this Part as soon as practicable and, in any event, not more than 12 days after the day the final results of the election or referendum were published under section 60 of the Act.
- (2) If an application for a recount is requested under section 14(1)(b) and the final results of the election confirm that grounds exists for a recount based upon closeness of margin as defined in section 62(1.1) of the Act, the board must conduct the recount of the elected office in the election in accordance with this Part as soon as practicable and, in any event, not more than 12 days after the day the final results of the election were published under section 60 of the Act.

Time, date and location of recount

19. (1) The chairperson must set the time, date and location for a recount.
- (2) As soon as practicable, the administrative review officer must notify the following persons of the time, date and location at which the recount is to be conducted:
- (a) the Nisga'a Elections Officer;
 - (b) the applicant;
 - (c) the respondent or the respondents, as the case may be.

Conduct of recount

20. (1) Every member of the board must participate in a recount unless excused from participation by the chairperson by reason of conflict of interest or any other extraordinary circumstance.

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

- (2) The chairperson must preside over a recount unless the chairperson is unable to preside by reason of conflict of interest or any other extraordinary circumstance.
- (3) If the chairperson is unable to preside over a recount, the remaining board members must select another board member to preside over the recount.
- (4) No persons, other than those described in section 63 of the Act, may be present at a recount unless the presiding chairperson orders otherwise.

Delivery of voting materials to place of recount

- 21.** (1) On the date set under section 19(1) for the recount of the votes in an election or referendum, the Nisga'a Elections Officer must bring or arrange delivery to the location of the recount the following materials pertaining to the election or referendum:
- (a) the ballot boxes containing any ballots at issue in the recount;
 - (b) the certification or secrecy envelopes containing any ballots at issue in the recount;
 - (c) the ballot accounts and any other accounts prepared in connection with the initial count that pertain to the ballots or envelopes at issue in the recount;
 - (d) the accounts prepared in connection with the final count that pertain to the ballots or envelopes at issue in the recount.
- (2) The Nisga'a Elections Officer must deliver custody of the items described in subsection (1) to the presiding chairperson.

Recount procedure

- 22.** (1) In a recount of the votes marked on the ballots cast in an election or referendum, the presiding chairperson must preside over a consideration of the ballots and certification or secrecy envelopes at issue in accordance with the requirements of the Act and its regulations governing the initial and final counts in that election or referendum.
- (2) The presiding chairperson may limit the ballots and envelopes to be considered on the recount from those for which the recount was requested, if consented to by each of the following persons who are entitled to be and who are present at the recount:
- (a) the applicant;
 - (b) the Nisga'a Elections Officer;

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

- (c) if the recount is of the votes marked on the ballots cast in an election for an elected office, the candidates for that elected office;
 - (d) if the recount is of the votes marked on the ballots cast in a referendum of the Nisga'a Nation, the Chief Executive Officer;
 - (e) if the recount is of the votes marked on the ballots cast in a referendum of a Nisga'a Village, the Chief Administrator of the relevant Nisga'a Village Government.
- (3) Unless otherwise directed by the presiding chairperson, the presiding chairperson must retain custody of the ballot boxes brought for the recount until the recount is completed.
- (4) Unless otherwise directed by the presiding chairperson, the presiding chairperson must arrange for the resealing of any opened ballot boxes
- (a) during a recess or adjournment of a recount, and
 - (b) after completion of the recount.

Delivery of voting materials on completion of recount

- 23.** On completion of the recount, the presiding chairperson must deliver custody of the items described in section 21(1) to the Nisga'a Elections Officer.

PART 4 – SECTION 67 OF THE ACT**Application and definitions**

24. (1) This Part applies to an application for an order that an election or a referendum be declared invalid under section 67(1) or (3) of the Act.

(2) In this Part:

“applicant” means the person who has filed an application in accordance with section 25(1) or (2), as the case may be;

“application” means an application filed in accordance with section 25(1) or (2), as the case may be;

“party to the application” means

(a) a respondent who has delivered a notice under section 25(4) of an intention to participate in the hearing of the application, and

(b) the Nisga'a Elections Officer;

“respondent” means, in the case of an application respecting

(a) an elected office in an election, the candidates for that elected office in that election,

(b) a referendum of the Nisga'a Nation, the Chief Executive Officer, and

(c) a referendum of a Nisga'a Village, the Chief Administrator of the relevant Nisga'a Village Government.

Filing an application

25. (1) A person making an application under section 67(1) of the Act must file an application in Form Six of this Regulation.

(2) A person making an application under section 67(3) of the Act must file an application in Form Seven of this Regulation.

(3) As soon as practicable after receiving an application under subsection (1) or (2), the administrative review officer must deliver a copy of the application

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

- (a) to the Nisga'a Elections Officer, and
 - (b) to the respondent or respondents, as the case may be.
- (4) Within two days after receiving a copy of an application under subsection (3), a respondent must notify the administrative review officer if the respondent intends to participate in the hearing of the application.

Submission of election or referendum records

- 26.** (1) Within two days after receiving a copy of an application under section 25(3), the Nisga'a Elections Officer must deliver to the administrative review officer all records concerning the election or referendum that are
- (a) in the possession or custody of the Nisga'a Elections Officer or other elections officials, and
 - (b) relevant to the matters alleged in the application as grounds for declaring the election or referendum, as the case may be, to be invalid.
- (2) At any time during the consideration of the application, the chairperson may, on the chairperson's own motion or on written request of a party to the application, order the Nisga'a Elections Officer to deliver to the administrative review officer any additional records concerning the election or referendum that have not been delivered under subsection (1).
- (3) Before the oral hearing is held or before written submissions must be filed, the chairperson must provide a reasonable opportunity for the parties to the application to examine the records referred to in subsection (1).
- (4) As soon as practicable and, in any event, before the panel of the board has made its determinations and order under section 29, the chairperson must provide a reasonable opportunity for the parties to the application to examine the records referred to in subsection (2).
- (5) The chairperson must ensure that the administrative review officer or a member of the board is continuously present at the time, date and location the chairperson has specified for the parties to the application to examine the records referred to in subsection (1) or (2).
- (6) No party to the application may
- (a) make a copy of any records made available for examination under this section unless otherwise ordered by the chairperson, or

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

- (b) remove from the specified location any records made available for examination under this section.
- (7) Unless otherwise directed by the chairperson, the administrative review officer must retain custody of any original records delivered to the administrative review officer under this section until the panel of the board has made its determination and order under section 29.
- (8) If the records referred to in this section include the contents of ballot boxes,
 - (a) the administrative review officer must arrange for the resealing of any opened ballot boxes after the time made available for an examination under this section has ended, and
 - (b) the chairperson must arrange for the resealing of all ballot boxes after any oral hearing is concluded under this Part or after the panel of the board has concluded its deliberations in the application, as the case may be.
- (9) On completion of the proceedings under this Part, the administrative review officer must deliver or arrange delivery of all the records referred to in this section to the Nisga'a Elections Officer.

Summary hearing of jurisdictional issue

- 27.** (1) At any time before an application filed under this Part is submitted to a panel of the board by the chairperson for consideration, the chairperson may, on the chairperson's own motion or on written request of a respondent or the Nisga'a Elections Officer, conduct a summary hearing as described in section 31 to make a ruling on a jurisdictional issue arising out of the application.
- (2) The chairperson's ruling in a summary hearing under subsection (1) is a final decision of the board.

Conduct of application

- 28.** (1) The chairperson must appoint a panel of the board consisting of the chairperson and two other board members to hear an application.
- (2) The chairperson must
 - (a) determine whether the application will be conducted on the basis of an oral hearing or written submissions,

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

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- (b) specify the time, date and location when the records referred to in section 26 may be examined by the parties to the application,
 - (c) if an oral hearing is to be held, specify the date of the hearing, and
 - (d) if no oral hearing is to be held, specify the date by which written submissions may be filed.
- (3) The administrative review officer must give to the parties to the application
- (a) notice of the chairperson's determination under subsection (2)(a),
 - (b) not less than two days notice of the time, date and location when the records referred to in section 26(1) may be examined by the parties to the application,
 - (c) if an oral hearing is to be held, not less than five days notice of the time, date, and location of the oral hearing, and
 - (d) if no oral hearing is to be held, not less than five days notice of the date by which a party to the application must file written submissions with the administrative review officer.
- (3) If an oral hearing is held, it must be open to the public.
- (4) The panel of the board may receive and accept on oath or by affirmation, by affidavit or otherwise, evidence that the panel considers relevant and credible, whether or not the evidence would be admissible in a court of law.
- (5) Sections 3(7), 5(2)(a), 10(4) to (8), 12, 14, 15, 16(2) and (6), 17(4), (6) to (8) and (11) and 18(1) and (3) of the *Nisga'a Administrative Decisions Review Act*, each with any changes required by the context, apply to the conduct of an application.

Panel determinations and order

- 29.**
- (1) After considering the application, the panel of the board must make and set out in writing its determinations under section 67(5) of the Act and its order under section 67(6) of the Act.
 - (2) The determinations and the order of the panel of the board under subsection (1) must be made as soon as practicable but, in any event, not later than two days
 - (a) after completion of the oral hearing, or
 - (b) if no oral hearing is held, after the date specified by the chairperson under section

28(2)(d) for filing written submissions.

- (3) The panel of the board must provide written reasons for its determinations and order under subsection (1) to the parties to the application within seven days after making its determinations and order.

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

PART 5 – GENERAL**Practice and procedure**

- 30.** (1) Subject to the Act and this Regulation, the board may determine the practice and procedure for the conduct of a review or consideration of an application under this Regulation.
- (2) In this Regulation, if an oral hearing may be conducted “by telephone or using other communication facilities”, every party to the review or the application and every member of the panel of the board must be able to hear and to be heard by each of the participants.

Summary hearing on jurisdictional issue

- 31.** (1) If a summary hearing on a jurisdictional issue is conducted under this Regulation, the chairperson must give the parties to the proceedings a reasonable opportunity
- (a) to make an oral submission on a specified time, date and place, or
- (b) to file a written submission within a specified time period.
- (2) The chairperson may conduct a summary hearing under this section by telephone or other communication facilities.
- (3) Subject to subsection (4), after considering the complaint or application and any oral or written submissions made under subsection (1), the chairperson may make a ruling on the jurisdictional issue.
- (4) In the absence of any oral or written submissions, the chairperson may make a ruling under subsection (3) based solely on information set out in the complaint or application.
- (5) On request of a party to the proceedings, the chairperson must provide written reasons for a ruling under subsection (3) as soon as practicable.

Authority of panel of the board

- 32.** Subject to the Act and this Regulation, a panel of the board has the powers and authority of the board under the Act and this Regulation.

Filings and delivery of notices

33. (1) If, under this Regulation, a complaint or application must be filed with the administrative review officer, the complainant or applicant must file the complaint or application, as the case may be, as follows:
- (a) by delivering the complaint or application to the administrative review officer at the board's offices, or
 - (b) by sending the complaint or application electronically by facsimile transmission to the facsimile number of the board's offices or by email to the email address of the board.
- (2) For purposes of the giving of notices by the administrative review officer under this Regulation, a complainant or an applicant as defined in any Part of this Regulation must provide the administrative review officer with the following contact information:
- (a) a telephone number at which the complainant or applicant may be contacted or at which a message may be left by voice mail or with another person for the complainant or applicant;
 - (b) a facsimile number or an email address to which notices or information may be sent to the complainant or applicant.
- (3) Subject to subsection (4), any notice or information provided to a complainant or applicant by the administrative review officer relying upon the contact information referred to in subsection (2) for that person is considered to have been properly delivered or given to that person.
- (4) If, under this Regulation, the administrative review officer is required to give a written notice to a complainant or an applicant, the administrative review officer must give the notice
- (a) by delivering it personally to the complainant or applicant, as the case may be, or
 - (b) by sending it electronically
 - (i) by facsimile transmission to the facsimile number, or
 - (ii) by email to the email address,provided by the complainant or applicant, as the case may be.
- (5) If, under this Regulation, the administrative review officer is required to give either a written or oral notice to a person other than the complainant, the applicant or an election official, the administrative review officer may give the notice using any of the following

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

- methods:
- (a) by delivering it personally;
 - (b) by leaving it with another person at a street address that
 - (i) the former person has provided under the *Nisga'a Elections Act* for purposes of receipt of communications under that Act and its regulations, or
 - (ii) the administrative review officer has reason to believe will result in the notice being delivered to the former person;
 - (c) by leaving a message by voice mail or with another person at a telephone number that
 - (i) the former person has provided under the *Nisga'a Elections Act* for purposes of receipt of communications under that Act and its regulations, or
 - (ii) the administrative review officer has reason to believe will result in the notice being delivered to the former person; or
 - (d) by sending it electronically by facsimile transmission to a facsimile number that or by email to an email address that
 - (i) the person has provided under the *Nisga'a Elections Act* for purposes of receipt of communications under that Act and its regulations, or
 - (ii) the administrative review officer has reason to believe will result in the notice being delivered to the person.
- (6) If a person referred to in subsection (5) is required to be given a notice, a notice given by the administrative review officer using one of the methods described under subsection (5) is considered to have been properly delivered or given to that person.
- (7) If, under this Regulation, a complaint must be made orally to the administrative review officer, the complainant must speak directly to the administrative review officer in person, by telephone or by other communication facilities which allow the complainant and the administrative review officer to hear each other.

Authority to extend or shorten time periods

34. (1) The administrative review officer, the chairperson, a panel of the board and election

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

- officials must do everything possible to meet the applicable time periods specified in this Regulation.
- (2) If, due to an emergency, mistake or extraordinary circumstances, it is not possible for a person referred to in subsection (1) to meet a time period or deadline set out in this Regulation, the chairperson may make an order extending the time period or deadline.
 - (3) Despite subsection (2), the chairperson must not extend any time period or deadline set out in section 7(4) or 18.
 - (4) Despite any other provision in this Regulation, the chairperson may shorten any time period or deadline set out in Part 1 if the chairperson considers it necessary to enable the panel of the board to make its determination and order under section 7 within the time required in section 7(4).
 - (5) Despite any other provision in this Regulation, the chairperson may shorten any time period or deadline set out in Part 3 if the chairperson considers it necessary to enable a recount ordered under section 17 to be conducted within the time required in section 18.

Calculation of time

35. Section 15(1) and (2) of the *Nisga'a Interpretation Act* do not apply to this Regulation.

Application of *Nisga'a Administrative Decisions Review Act*

36. Sections 4(2)(a) and (b) and 19 to 22 of the *Nisga'a Administrative Decisions Review Act* apply to complaints and applications made under this Regulation.

Repeal and replacement

37. The *Nisga'a Elections Dispute Resolution Regulation, 2004*, NLGSR 2004/11, as amended, is repealed and replaced by this Regulation.

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

Form One

Nisga'a Administrative Decisions Review Board

Complaint under Section 12(1) or (2) of the *Nisga'a Elections Act*

I, **(1)** _____, request a review by the Nisga'a Administrative Decisions Review Board of the decision of the Nisga'a Elections Officer

(2) _____ dismissing my objection to the omission of my name on the preliminary list of voters (*section 12(1) of the Nisga'a Elections Act*);

OR

_____ allowing an objection to the listing of my name on the preliminary list of voters (*section 12(2) of the Nisga'a Elections Act*);

OR

_____ dismissing my objection to the listing of **(3)** _____ on the preliminary list of voters (*section 12(1) of the Nisga'a Elections Act*).

My Nisga'a citizenship number is **(4)** _____.

I was given written notice of this decision on **(5)** _____ 20____. Attached is a copy of the decision or notice of the decision. **(6)**

I believe that this decision should be set aside by the Board for the following reasons:

(7) _____

Attached are the following documents in support of my request for review:

(8) _____

You may give me any documents or notices by delivering them to me personally or by sending them to me by fax to the following fax number: **(9)** (_____) _____ or by email at the following email

NISGA’A ELECTIONS DISPUTE RESOLUTION REGULATION

address: _____@_____ and you may contact me by telephoning me or leaving a message for me at the following telephone number: (_____)_____.

Dated: (10) _____ 20____ Signed: (11) _____

Assistance in Completion of Form One

Please write or print legibly.

- (1) Give your full name.
- (2) Identify the decision that you are requesting the Board to review.
- (3) If you are asking for the review of a decision dismissing your objection to the listing of a person on the preliminary list of voters, name the person to whom you are objecting.
- (4) Give your Nisga’a citizenship number. You must be a Nisga’a citizen in order to file a complaint under section 12(1) or (2) of the *Nisga’a Elections Act*.
- (5) Specify the date on which you were given written notice of the decision. You must file the complaint within three days after the Nisga’a Elections Officer gives you written notice.
- (6) Attach a copy of the decision or notice of the decision.
- (7) Describe the reasons for your request for a review of this decision including the facts that support the reasons for your request.
- (8) List and attach any documents that you are relying on and that you wish the Board to consider. Attach evidence of your Nisga’a citizenship.
- (9) Give a fax number or email address to which documents/notices may be sent and the telephone number at which you may be contacted.
- (10) Give the date you completed this complaint form.
- (11) Sign the complaint form.

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

Form Two

Nisga'a Administrative Decisions Review Board

Complaint under Section 19(1) of the *Nisga'a Elections Act*

I, **(1)** _____, request a review by the Nisga'a Administrative Decisions Review Board of the decision of the Nisga'a Elections Officer that

(2) _____ my nomination for elected office has not been completed in accordance with section 16(9) of the *Nisga'a Elections Act*;

OR

_____ I am not qualified to stand for an elected office in an election.

The elected office referred to above is **(3)** _____.

I was given written notice of this decision on **(4)** _____ 20____. Attached is a copy of the decision or notice of the decision. **(5)**

I believe that this decision should be set aside by the Board for the following reasons:

(6) _____

Attached are the following documents in support of my request for review:

(7) _____

You may give me any documents or notices by delivering them to me personally or by sending them to me by fax to the following fax number: **(8)** (_____) _____ or by email at the following email address: _____@_____ and you may contact me by telephoning me or leaving a message for me at the following telephone number: (_____) _____.

Dated: **(9)** _____ 20____ Signed: **(10)** _____

Assistance in Completion of Form Two

Please write or print legibly.

- (1) Give your full name.
- (2) Identify the decision that you are requesting the Board to review.
- (3) State the elected office that is the subject of the Nisga'a Election Officer's decision.
- (4) Specify the date on which you were given written notice of the decision. You must file the complaint within three days after the Nisga'a Elections Officer gives you written notice.
- (5) Attach a copy of the decision or notice of the decision.
- (6) Describe the reasons for your request for a review of this decision including the facts that support the reasons for your request.
- (7) List and attach any documents that you are relying on and that you wish the Board to consider.
- (8) Give a fax number or email address to which documents/notices may be sent and the telephone number at which you may be contacted.
- (9) Give the date you completed this complaint form.
- (10) Sign the complaint form.

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

Form Three

Nisga'a Administrative Decisions Review Board

Complaint under Section 19(2) of the *Nisga'a Elections Act*

I, **(1)** _____, request a review by the Nisga'a Administrative Decisions Review Board of the decision of the Nisga'a Elections Officer that **(2)** _____ is qualified to stand for the elected office of **(3)** _____ in an election.

I have been nominated for the elected office in the election referred to above and my nomination has been seconded. **(4)**

I was given written notice of this decision on **(5)** _____ 20____. Attached is a copy of the decision or notice of the decision. **(6)**

I believe that this decision should be set aside by the Board for the following reasons:

(7) _____

Attached are the following documents in support of my request for review:

(8) _____

You may give me any documents or notices by delivering them to me personally or by sending them to me by fax to the following fax number: **(9)** (____)_____ or by email at the following email address: _____@_____ and you may contact me by telephoning me or leaving a message for me at the following telephone number: (____)_____.

Dated: **(10)** _____ 20____ Signed: **(11)** _____

Assistance in Completion of Form Three

Please write or print legibly.

- (1) Give your full name.
- (2) State the name of the person whose qualification to stand for elected office you are objecting to.
- (3) Identify the elected office that is the subject of the Nisga'a Election Officer's decision.
- (4) A complaint under section 19(2) may only be made by a person who has been nominated and whose nomination has been seconded for the same elected office as the person who has been found qualified to stand for elected office.
- (5) Specify the date on which you were given written notice of the decision. You must file the complaint within three days after the Nisga'a Elections Officer gives you written notice.
- (6) Attach a copy of the decision or notice of the decision.
- (7) Describe the reasons for your request for a review of this decision including the facts that support the reasons for your request.
- (8) List and attach any documents that you are relying on and that you wish the Board to consider. If you are applying under section 19(2) of the *Nisga'a Elections Act* attach evidence that you have been nominated for the elected office and that your nomination has been seconded.
- (9) Give a fax number or email address to which documents/notices may be sent and the telephone number at which you may be contacted.
- (10) Give the date you completed this complaint form.
- (11) Sign the complaint form.

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

Form Four

Nisga'a Administrative Decisions Review Board

Application for Recount under Section 62(1) of the Nisga'a Elections Act

I, (1) _____, request the Nisga'a Administrative Decisions Review Board under section 62(1) of the Nisga'a Elections Act to conduct a recount of the votes marked on the ballots cast in the election for the elected office of (2) _____ held on (3) _____ 20_____.

I am (4) _____ a candidate for the elected office in the election referred to above;

OR

_____ a candidate representative for (5) _____ who is a candidate for the elected office in the election referred to above.

The final results of this election were published on (6) _____ 20_____.

This recount is requested on the following grounds: (7) (check all applicable)

_____ that votes for that office were not correctly accepted or ballots were not correctly rejected in accordance with the Act or its regulations;

_____ that ballots for that office remaining in certification or secrecy envelopes should be considered in accordance with the Act or its regulations;

_____ that a ballot account does not accurately record the number of votes for a candidate for that office;

_____ that the final count did not correctly calculate the total number of votes for a candidate for that office.

The facts supporting the grounds set out above are as follows:

(8) _____

I believe that a recount could materially affect the results of this election because:

(9) _____

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

Attached are the following documents in support of my request for a recount:

(10) _____

You may give me any documents or notices by delivering them to me personally or by sending them to me by fax to the following fax number: (11) (_____)_____ or by email at the following email address: _____@_____ and you may contact me by telephoning me or leaving a message for me at the following telephone number: (_____)_____.

I certify that the information contained in this application is true to the best of my knowledge and belief.

Dated: (12) _____ 20____ Signed: (13) _____

Assistance in Completion of Form Four

Please write or print legibly.

- (1) Give your full name.
- (2) Identify the elected office to be filled in the election for which you are requesting a recount.
- (3) Specify the general voting day for the election.
- (4) Indicate your status to make this application. Only a candidate or a candidate representative may make an application for a recount under section 62(1) of the *Nisga'a Elections Act*.
- (5) If you are a candidate representative making an application under section 62(1) of the *Nisga'a Elections Act* state the name of the candidate you are representing.
- (6) State the date the final results of the election were published under section 60 of the *Nisga'a Elections Act*. You have only two days after this publication to make your application for a recount.
- (7) Identify the ground or grounds for your application. Check all that apply. If none of these grounds is alleged the Board has no authority to conduct a recount.
- (8) List the specific facts which support the ground or grounds for your application.
- (9) The Board does not have authority to conduct a recount unless it has first determined that a recount could materially affect the results of the election.

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

- (10) List and attach any documents that you are relying on and that you wish the Board to consider. Attach documents that provide evidence you are a candidate or a candidate representative in the election for the elected office for which you are requesting a recount.
- (11) Give a fax number or email address to which documents/notices may be sent and the telephone number at which you may be contacted.
- (12) Give the date you completed this application.
- (13) Sign the application form.

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

Form Four B

Nisga'a Administrative Decisions Review Board

Application for Recount under Section 62(1.1) of the *Nisga'a Elections Act*

I, (1) _____, request the Nisga'a Administrative Decisions Review Board under section 62(1.1) of the *Nisga'a Elections Act* to conduct a recount of the votes marked on the ballots cast in the election for the elected office of (2) _____ held on (3) _____ 20_____.

I am (4) _____ a candidate for the elected office in the election referred to above;

OR

_____ a candidate representative for (5) _____ who is a candidate for the elected office in the election referred to above.

The final results of this election were published on (6) _____ 20_____.

This application for a recount is requested on the ground of closeness of margin under section 62(1.1) of the *Nisga'a Elections Act* in the following circumstances (*check as applicable*):

_____ in an election for national office, an election for the office of a Chief Councillor or a by-election for the office of a single Village Councillor or a single Nisga'a Urban Local Representative, the margin between the candidate declared elected to office and one or more other candidates is two votes or less;

_____ in an election for the office of two Nisga'a Urban Local Representatives from a Nisga'a Urban Local, the margin between the candidate declared elected to office with the highest number of votes and one or more other candidates is two votes or less;

_____ in an election for the office of two Nisga'a Urban Local Representatives from a Nisga'a Urban Local, the margin between the candidate declared elected to office with the second highest number of votes and one or more other candidates is two votes or less;

_____ in an election for the office of two or more Village Councillors of a Nisga'a Village Government, the margin between the candidate declared elected to office with the lowest number of votes and one or more other candidates is two votes or less.

Attached are the following documents in support of my application for a recount:

(7) _____

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

You may give me any documents or notices by delivering them to me personally or by sending them to me by fax to the following fax number: **(8)** (_____)_____ or by email at the following email address: _____@_____ and you may contact me by telephoning me or leaving a message for me at the following telephone number: (_____)_____.

I certify that the information contained in this application is true to the best of my knowledge and belief.

Dated: **(9)** _____ 20____ Signed: **(10)** _____

Assistance in Completion of Form Four B

Please write or print legibly.

- (1) Give your full name.
- (2) Identify the elected office to be filled in the election for which you are requesting a recount.
- (3) Specify the general voting day for the election.
- (4) Indicate your status to make this application. Only a candidate or a candidate representative may make an application for a recount under section 62(1.1) of the *Nisga'a Elections Act*.
- (5) If you are a candidate representative making an application under section 62(1.1) of the *Nisga'a Elections Act* state the name of the candidate you are representing.
- (6) State the date the final results of the election were published under section 60 of the *Nisga'a Elections Act*. You have only two days after this publication to make your application for a recount.
- (7) Attach a copy of the final results of the election, along with documents that provide evidence you are a candidate or a candidate representative in the election for the elected office for which you are requesting a recount.
- (8) Give a fax number or email address to which documents/notices may be sent and the telephone number at which you may be contacted.
- (9) Give the date you completed this application.
- (10) Sign the application form.

Form Five

Nisga'a Administrative Decisions Review Board

Application for Recount under Section 62(3) of the *Nisga'a Elections Act*

I, (1) _____, request the Nisga'a Administrative Decisions Review Board under section 62(3) of the *Nisga'a Elections Act* to conduct a recount of the votes cast in the referendum held on (2) _____ 20_____.

I am a voter eligible to vote in the referendum referred to above. (3)

The final results of this referendum were published on (4) _____ 20_____.

This recount is requested on the following grounds: (5) (*check all applicable*)

_____ that votes for that office were not correctly accepted or ballots were not correctly rejected in accordance with the Act or its regulations;

_____ that ballots for that office remaining in certification or secrecy envelopes should be considered in accordance with the Act or its regulations;

_____ that a ballot account does not accurately record the number of votes for a candidate for that office;

_____ that the final count did not correctly calculate the total number of votes for a candidate for that office.

The facts supporting the grounds set out above are as follows:

(6) _____

I believe that a recount could materially affect the results of this election because:

(7) _____

Attached are the following documents in support of my request for a recount:

(8) _____

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

You may give me any documents or notices by delivering them to me personally or by sending them to me by fax to the following fax number: (9) (_____) _____ or by email at the following email address: _____@_____ and you may contact me by telephoning me or leaving a message for me at the following telephone number: (_____)_____.

I certify that the information contained in this application is true to the best of my knowledge and belief.

Dated: (10) _____ 20_____ Signed: (11) _____

Assistance in Completion of Form Five

Please write or print legibly.

- (1) Give your full name.
- (2) Specify the voting day of the referendum.
- (3) Only a voter eligible to vote in the referendum may make an application.
- (4) State the date the final results of referendum were published. You have only two days after this publication to make your application.
- (5) Identify the ground or grounds for making the application. Check all that apply. If none of these grounds are alleged the Board has no authority to conduct a recount.
- (6) List the specific facts which support the ground or grounds for your application.
- (7) The Board does not have authority to conduct a recount unless it has first determined that a recount could materially affect the results of the referendum.
- (8) List and attach any documents that you are relying on and that you wish the Board to consider.
- (9) Give a fax number or email address to which documents/notices may be sent and the telephone number at which you may be contacted.
- (10) Give the date you completed this application.
- (11) Sign the application form.

Form Six

Nisga'a Administrative Decisions Review Board

Application to Declare Election Invalid under Section 67(1) of the *Nisga'a Elections Act*

I, (1) _____, request the Nisga'a Administrative Decisions Review Board under section 67(1) of the *Nisga'a Elections Act* to make an order declaring that the election for the elected office of (2) _____ held on (3) _____ 20____ is invalid.

The Nisga'a Elections Officer published a notice of the official results of the election under section 65 of the *Nisga'a Elections Act* on (4) _____ 20_____.

I am (5) _____ a candidate for the elected office in the election referred to above;

OR

_____ a voter eligible to vote in the election referred to above.

I believe that the election was not conducted in accordance with the *Nisga'a Elections Act* or its regulations for the following reason or reasons:

(6) _____

The facts supporting the reasons set out above are as follows:

(7) _____

I believe that the contravention of the *Nisga'a Elections Act* or its regulations as set out above materially affected the results of the election for the following reasons:

(8) _____

Attached are the following documents in support of my application for an order declaring the election invalid:

(9) _____

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

You may give me any documents or notices by delivering them to me personally or by sending them to me by fax to the following fax number: **(10)** (_____) _____ or by email at the following email address: _____@_____ and you may contact me by telephoning me or leaving a message for me at the following telephone number: (_____)_____.

Dated: **(11)** _____ 20____ Signed: **(12)** _____

Assistance in Completion of Form Six

Please write or print legibly.

- (1) Give your full name.
- (2) Identify the elected office to be filled in the election which you are applying to invalidate.
- (3) Specify the voting day of the election.
- (4) State the date the Nisga'a Elections Officer published a notice of the official results of the election under section 66 of the *Nisga'a Elections Act*. You have only five days after this notice has been published to make your application.
- (5) State whether you are a candidate for the elected office in the election referred to in this application or whether you are a voter eligible to vote in that election. You cannot apply for an order to declare the election invalid unless you are a candidate or an eligible voter.
- (6) Specify the sections of the *Nisga'a Elections Act* or its regulations that you believe have been contravened and why you believe they have been contravened.
- (7) List the specific facts which support the reason or reasons you believe the *Nisga'a Elections Act* or its regulations were contravened.
- (8) State the reasons why you believe that the contravention of the *Nisga'a Elections Act* or its regulations has materially affected the results of the election. The Board cannot declare an election invalid unless the contravention has materially affected the results of the election.
- (9) List and attach any documents that you are relying on and that you wish the Board to consider.
- (10) Give a fax number or email address to which documents/notices may be sent and the telephone number at which you may be contacted.

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

(11) Give the date you completed this application.

(12) Sign the application form.

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

Form Seven

Nisga'a Administrative Decisions Review Board

Application to Declare Referendum Invalid under Section 67(3) of the *Nisga'a Elections Act*

I, **(1)** _____, request the Nisga'a Administrative Decisions Review Board under section 67(3) of the *Nisga'a Elections Act* to make an order declaring that the referendum held on **(2)** _____ 20____ is invalid.

The Nisga'a Elections Officer published a notice of the official results of the referendum under section 66 of the *Nisga'a Elections Act* on **(3)** _____ 20____.

I am **(4)** a voter eligible to vote in the referendum referred to above.

I believe that the referendum was not conducted in accordance with the *Nisga'a Elections Act* or its regulations for the following reason or reasons:

(5) _____

The facts supporting the reasons set out above are as follows:

(6) _____

I believe that the contravention of the *Nisga'a Elections Act* or its regulations as set out above materially affected the results of the referendum for the following reasons:

(7) _____

Attached are the following documents in support of my application for an order declaring the referendum invalid:

(8) _____

You may give me any documents or notices by delivering them to me personally or by sending them to me

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

by fax to the following fax number: (9) (_____)_____ or by email at the following email address: _____@_____ and you may contact me by telephoning me or leaving a message for me at the following telephone number: (_____)_____.

Dated: (10) _____ 20____ Signed: (11) _____

Assistance in Completion of Form Seven

Please write or print legibly.

- (1) Give your full name.
- (2) Specify the general voting day for the referendum which you are applying to invalidate.
- (3) State the date the Nisga'a Elections Officer published a notice of the official results of the referendum under section 66 of the *Nisga'a Elections Act*. You have only five days after this notice has been published to make your application.
- (4) You cannot apply for an order to declare the referendum invalid unless you are a voter eligible to vote in that referendum.
- (5) Specify the sections of the *Nisga'a Elections Act* or its regulations that you believe have been contravened and why you believe they have been contravened.
- (6) List the specific facts which support the reason or reasons you believe the *Nisga'a Elections Act* or its regulations were contravened.
- (7) State the reasons why you believe that the contravention of the *Nisga'a Elections Act* or its regulations has materially affected the results of the referendum. The Board cannot declare a referendum invalid unless the contravention has materially affected the results of the referendum.
- (8) List and attach any documents that you are relying on and that you wish the Board to consider.
- (9) Give a fax number or email address to which documents/notices may be sent and the telephone number at which you may be contacted.
- (10) Give the date you completed this application.
- (11) Sign the application form.

NISGA'A ELECTIONS DISPUTE RESOLUTION REGULATION

LEGISLATIVE HISTORY

Nisga'a Elections Dispute Resolution Regulation, NLGSR 2008/10, in force June 16, 2008

Amendments

| Section | Amendment | In Force |
|----------------|-------------------------|------------------|
| 14 | amended [2011/07, s. 1] | October 28, 2011 |
| 16 | amended [2011/07, s. 2] | October 28, 2011 |
| 18 | amended [2011/07, s. 3] | October 28, 2011 |
| Form Four B | added [2011/07, s. 4] | October 28, 2011 |

Amending Acts:

NLGSR 2011/07 *Nisga'a Elections Dispute Resolution Amendment Regulation, 2011*