



CONFIDENTIALITY OF LISTS OF ELECTORS AND REFERENDUM LISTS

Best practices for candidates, authorized political parties, recognized tickets and representatives of qualified voters

Introduction

For the Directeur général des élections du Québec (DGEQ), protecting personal information and ensuring information security are institutional priorities. The DGEQ is required to take all necessary measures to ensure the protection and security of all personal and confidential information contained in the permanent list of electors. Municipal electoral lists made for the purpose of holding a poll are also derived, in part, from this information.

The *Act respecting elections and referendums in municipalities* (AERM) expressly states that the information contained in municipal lists of electors or referendum lists (hereinafter referred to as “list(s) of electors”) is confidential (sec. 659, AERM). In addition, the AERM generally restricts the use and communication of this information to the specific purposes set out in the Act and to only those persons legally authorized to access it (sec. 659.1, AERM).

In that context, this document is designed to inform candidates, authorized political parties, recognized tickets and representatives of qualified voters about the provisions of the AERM governing the use and communication of the list of electors, as well as to raise awareness of confidentiality best practices.

This document is available on the DGEQ’s website at the following address: electionsquebec.qc.ca.

The general information and measures proposed in this document do not take precedence over the provisions of the AERM. Whenever it is a question of interpreting or applying the Act, reference should be made to the text published by Québec Official Publisher (*Éditeur officiel du Québec*), which can be consulted at the following address: legisquebec.gouv.qc.ca.

Questions or comments on this document or on the recommended measures designed to protect the confidentiality of information on electors contained in lists of electors should be submitted to the returning officer, clerk or secretary-treasurer of the municipality concerned.

1. Security measures

To ensure the confidentiality of all personal information contained in lists of electors, candidates, authorized political parties, recognized tickets and representatives of qualified voters who have obtained lists of electors are requested to adopt the following security measures:

- Ensure that only those persons authorized by candidates, party/ticket leaders or representatives have access to the list of electors and that they use this information exclusively for the authorized purposes set out in the AERM.
- Prior to accessing this information or using it in the performance of their duties, ensure that all persons authorized to access the list of electors by candidates, party/ticket leaders or representatives are aware of the confidentiality requirement for all personal information contained in the list of electors, in addition to the restrictions on its use and the applicable penalties in the event of non-compliance.
- Do not unnecessarily duplicate the list, in whole or in part, regardless of the format used (paper or electronic).
- Keep an inventory of the locations of all copies of the list of electors (paper or electronic format), together with the names of all persons authorized to access and use the list.
- Ensure that the list of electors is kept secure by taking all appropriate steps, including locking filing cabinets, using passwords and encrypting data.
- Whenever the list of electors is communicated to an authorized person, avoid using unsecured means of transmission, such as email or public Wi-Fi networks. It is recommended to choose a data transmission method under which the identity of the recipient can be ensured so that no unauthorized persons can illegally access the list, either directly or indirectly.

- As soon as the purpose for communicating the information is achieved, recover all copies of the list of electors entrusted to all authorized persons or ensure that all copies have been securely destroyed.
- Following the election or referendum period, securely destroy all copies of the list of electors (this measure applies to candidates and representatives of qualified voters).

2. Reporting security incidents

Candidates, authorized political parties, recognized tickets and representatives of qualified voters who have obtained a list of electors are requested to report to the returning officer, clerk or secretary-treasurer without delay if any act occurs that could constitute an actual or suspected breach of information security, such as the loss or theft of devices or documents (paper or electronic format) containing information derived from the list of electors, intrusions into networks or information systems, misuse or malicious use of information, fraud, unauthorized disclosure, identity theft or unauthorized access.

3. Providing service providers with the list of electors

Prior to entrusting any information contained in the list of electors to a service provider, particularly when using IT solutions, candidates, authorized political parties, recognized tickets and representatives of qualified voters are advised to have the service provider complete a confidentiality agreement form. The form presented in Appendix 2 may be used for this purpose.

This form is designed to inform service providers about the confidentiality of all information contained in the list of electors, in addition to the restrictions on its use and the applicable provisions of the AERM.

The communication or use of the list of electors by the service provider should be strictly limited not only to the mandate entrusted to the service provider by the candidate, party/ticket leader or representative, but also to the purposes set out in the AERM. Candidates, party/ticket leaders or representatives can take appropriate measures to ensure that the service provider complies with the terms of the confidentiality agreement, as applicable, in particular the prohibition on retaining any personal information contained in the list of electors once the mandate has ended.

4. Volunteers and staff working on an election campaign or referendum

Prior to entrusting the list of electors to volunteers or staff working on an election campaign or referendum, all persons who have obtained a copy of the list of electors (candidates, party/ticket leaders, representatives) are advised to ensure that all volunteers and staff members are aware of the confidentiality requirements for personal information contained in the list of electors, in addition to the restrictions on its use and the applicable penalties in the event of non-compliance.

In particular, all volunteers and staff members should be made aware of the following:

- they are not allowed to consult or use the list of electors for personal reasons or for any purposes not set out in the AERM;
- subject to your instructions and in accordance with the AERM, they are not allowed to communicate the information contained in the list of electors to anyone;
- they must ensure that the list of electors is stored securely at all times;
- they must provide you with the list of electors as soon as the purpose for communicating the list is achieved or must destroy all copies securely in accordance with your instructions.

It is recommended to make sure that the confidentiality agreement form (Appendix 3) is completed by all persons authorized to use the list of electors by candidates, authorized political parties, recognized tickets or representatives of qualified voters.

5. Withdrawal of candidacy, party authorization or ticket recognition

The following provisions of the AERM set out the applicable requirements whenever a candidacy, party authorization or ticket recognition is withdrawn:

108. A person who withdraws his nomination after having obtained free copies of the list of electors shall return all copies obtained to the returning officer.

109.

[...]

Each party or ticket whose authorization or recognition is withdrawn and which obtained free copies of the list of electors must return all copies obtained to the returning officer.

632. Every person is guilty of an offence who

[...]

(9) withdraws his candidacy and fails to return the copies of the list of electors obtained by him to the returning officer;

(10) being a party or ticket whose authorization or recognition is withdrawn, fails to return the copies of the list of electors obtained by it to the returning officer.

639. Every person who is guilty of an offence described in any of sections 586 to 588, 631 to 634 and 636.1 is liable,

(1) for a first offence, to a fine of not less than \$500 nor more than \$2,000 in the case of a natural person or, in the case of a legal person, to a fine of not less than \$1,500 nor more than \$6,000;

(2) for any subsequent conviction, to a fine of not less than \$1,000 nor more than \$4,000 in the case of a natural person or, in the case of a legal person, to a fine of not less than \$3,000 nor more than \$12,000.

We will contact the returning officers within 30 days following the withdrawal of a political party's authorization in order to confirm that the lists of electors have been returned in accordance with the AERM.

In addition, returning officers are requested to bring to our attention any situations in which a person fails to return these documents.

In the event that a list of electors is communicated in electronic format, candidates, authorized political parties, recognized tickets and representatives of qualified voters are advised to submit a written attestation indicating that all copies of the list of electors have been securely destroyed.

APPENDIX 1
Frequently asked questions

Are municipal election candidates, authorized political parties, recognized tickets or representatives of qualified voters allowed to do the following?

1. Use the list of electors to meet voters in their homes, promote their electoral programs or solicit political contributions?

Yes, all of these activities are authorized under the AERM.

2. Use the list of electors to send birthday greetings to voters?

No, the list of electors is not designed for that purpose; it is only designed for the purposes set out in the AERM. Anyone using electoral information to send birthday greetings could be in violation of the AERM.

3. Tell individuals whether or not their contact information appears in the list of electors?

Unless their identity can be established, it is recommended that individuals be asked to contact their municipal returning officer or to appear before the board of revisors.

4. Tell individuals whether or not the name of a relative or friend appears in the list of electors?

No, the AERM prohibits anyone from communicating information derived from the list of electors to any person who is not legally entitled to access it. All information on the names appearing in the list of electors is confidential.

5. Sell or give the list of electors to anyone wishing to use it as a mailing list or for solicitation purposes?

No, the list of electors may not be used for any purposes other than those set out in the AERM.

In addition, any individual who communicates or facilitates the communication of the list of electors in violation of the AERM is liable to a fine ranging from \$500 to \$2,000 for a first infraction.

6. Keep a copy of the list of electors following the election?

Since the AERM prohibits the use of the list of electors for any purposes other than those set out in the Act, you are advised to securely destroy all copies of the list of electors following the election period.

If it deems necessary, however, an authorized political party may keep a copy of the list of electors following an election in order to communicate with voters, in particular with a view to recruiting new members or soliciting political contributions.

7. Provide volunteers or campaign staff with the list of electors so they can tabulate results or encourage voters to go to the polls on election day?

A volunteer or staff member may receive a copy of the list of electors in order to campaign on behalf of a candidate, political party, recognized ticket or representative of qualified voters.

It is advisable to entrust this mandate in writing and to specify the scope of the mandate and the confidentiality requirements. It is also advisable to have all persons who receive a copy of the list of electors sign a confidentiality agreement.

Candidates, authorized political parties, recognized tickets and representatives of qualified voters must take the required measures to ensure that all persons who obtain the list of electors comply with the conditions set out in their mandate and with the provisions of the AERM.

8. Share the list of electors with elected officials, political parties or candidates at another level of government?

No, the AERM prohibits anyone from communicating the list of electors for any purposes other than those set out in the Act and to anyone who is not legally entitled to access it.

9. Use the list of electors for genealogical purposes or allow volunteers to keep a copy of the list for those purposes?

No, the list of electors may not be used or communicated for any purposes other than those set out in the AERM.

In addition, any individual who uses or communicates the list of electors or facilitates the communication thereof in violation of the Act is liable to a fine ranging from \$500 to \$2,000.

10. Provide a firm offering election campaign management software with the list of electors?

Candidates, authorized political parties, recognized tickets and representatives of qualified voters which obtained the list of electors from the returning officer may entrust a service provider with managing or hosting the list of electors, for their exclusive use, on a computerized platform.

It is advisable to entrust this mandate in writing and to specify the scope of the mandate and the confidentiality requirements.

Candidates, authorized political parties, recognized tickets and representatives of qualified voters must take the required measures to ensure that the service provider complies with the mandated conditions and with the provisions of the AERM.

APPENDIX 2

Confidentiality agreement for service providers

Act respecting elections and referendums in municipalities (AERM)

In consideration of the following:

- personal information is confidential and the AERM provides for specific information protection measures;
- section 659 of the AERM stipulates that the personal information contained in a list of electors, a referendum list, a list of qualified voters entitled to have their names entered on a referendum list and an application submitted to a board of revisors is not public in nature;
- section 659.1 of the AERM states that “No person may use, communicate or allow to be communicated, for purposes other than those provided for in this Act, or communicate or allow to be communicated to a person not legally entitled thereto, any information contained in a list of electors or referendum list or in a list of qualified voters entitled to have their names entered on a referendum list” and in consideration of the fact that a violation of this provision may lead to a fine ranging from \$500 to \$2,000 in the case of a natural person or from \$1,500 to \$6,000 in the case of a legal person for a first infraction pursuant to section 639(1) of the AERM;
- information on electors is confidential and confidentiality must be ensured when this information is communicated to the service provider for the fulfilment of a contract and, as applicable, when personal information is generated in the fulfilment of a contract.

I, the undersigned,

Name of individual

as representative of the service provider for:

Name of political party, recognized ticket, candidate or representative (hereinafter “the entity”)

hereby agree:

- to inform the concerned staff members about the security rules governing the protection of personal and confidential information, in addition to the obligations set out in this provision, and to disseminate all relevant information in this regard;
- to make personal information accessible to only those members of my staff who are entitled to receive it and only when this information is necessary for the performance of their duties in connection with their mandate;
- not to use, communicate or reproduce this personal information to anyone unless it is in accordance with the fulfilment of a mandate;
- to use personal information exclusively to carry out this contract;
- to take all necessary security measures with a view to ensuring the confidentiality of personal information at all stages of this contract;
- once the contract is no longer in effect, not to keep copies of any documents (whether paper or electronic format) containing personal information on a list of electors or a referendum list and to return any such documents to the entity or to destroy them securely;
- inform the entity without delay if any of the above-mentioned obligations are violated or if any events occur that could compromise the security or confidentiality of this personal information;
- provide the entity with all relevant information on the protection of personal information relating to lists of electors or referendum lists and to authorize the entity to visit all sites where the service provider holds personal information in order to ensure compliance with this contract.

I acknowledge that I have read and understood the terms of this agreement.

Signature

Official title

Name of service provider

Signed in _____

City/town

On _____

Date

APPENDIX 3

**Confidentiality agreement for persons authorized
to use the list of electors or referendum list**

Act respecting elections and referendums in municipalities (AERM)

In consideration of the following:

- personal information is confidential and the AERM provides for specific information protection measures;
- section 659 of the AERM stipulates that the personal information contained in a list of electors, a referendum list, a list of qualified voters entitled to have their names entered on a referendum list and an application submitted to a board of revisors is not public in nature;
- section 659.1 of the AERM states that “No person may use, communicate or allow to be communicated, for purposes other than those provided for in this Act, or communicate or allow to be communicated to a person not legally entitled thereto, any information contained in a list of electors or referendum list or in a list of qualified voters entitled to have their names entered on a referendum list” and in consideration of the fact that a violation of this provision may lead to a fine ranging from \$500 to \$2,000 in the case of a natural person or from \$1,500 to \$6,000 in the case of a legal person for a first infraction pursuant to section 639(1) of the AERM;
- information on electors is confidential and confidentiality must be ensured whenever this information is communicated or used.

I, the undersigned,

Name of individual

as authorized by:

Name of political party, recognized ticket, candidate or representative (hereinafter “the entity”)

hereby agree:

- to protect the confidentiality of information on electors contained in lists of electors or in referendum lists entrusted to me by the entity;
- to use this information exclusively for the purposes set out in the AERM, subject to the instructions given to me by the entity in accordance with the Act;
- not to communicate this personal information to anyone, subject to the instructions given to me by the entity in accordance with the Act;
- to take all necessary security measures with a view to ensuring the confidentiality of personal information;
- once my duties have been performed, not to retain copies of any documents (whether paper or electronic) containing personal information and to return any such documents to the entity or to destroy them securely, subject to the instructions given by the entity;
- inform the entity without delay if any of the obligations set out in the above-mentioned provisions are violated or if any event occurs that could compromise the security or confidentiality of this personal information.

I acknowledge that I have read and understood the terms of this agreement.

Signature

Official title

Signed in _____

City/town

On _____

Date