



**Elections
Ontario**

We Make Voting Easy.

Election Finances Act **Guidelines**

Effective: March 2022

Election Finances Act - Guidelines

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Election Finances Act Guidelines

These guidelines are provided by the Chief Electoral Officer and replace all previous guidelines that were published in the *Ontario Gazette* before March 2022. These guidelines describe the general approach of the Chief Electoral Officer to matters governed by the *Election Finances Act*. These guidelines are not intended to constitute a binding statement of how the Chief Electoral Officer will exercise his or her discretion in every matter and to the extent that any conflict exists between these guidelines and the *Election Finances Act*, the *Election Finances Act* will prevail.

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1. Prohibitions on Pre-Registration Activities

1. Prohibitions on Pre-Registration Activities

This guideline explains prohibitions on pre-registration activities for a political party, constituency association, candidate, and leadership or nomination contestant.

Political party or constituency association prior to registration

1. A political party or constituency association must not engage in financial activities, excluding accepting memberships for \$25 or less, for political purposes prior to registering with the Chief Electoral Officer. Financial activity includes, but is not limited to, accepting contributions and incurring expenses.

Candidate prior to registration

2. A candidate must not engage in financial activities for political purposes prior to registering with the Chief Electoral Officer. Financial activity includes, but is not limited to, accepting contributions and incurring expenses.

Leadership contestant prior to registration

3. A potential leadership contestant may engage in financial activities to pay for costs regarding the feasibility of entering a leadership race. When the feasibility of entering a contest is no longer being explored, an individual seeking election as a leader must not engage in any contest financial activities until registering with the Chief Electoral Officer once the leadership contest has been called.

Nomination contestant prior to registration

4. A nomination contestant must register with Elections Ontario in order to receive contributions and finance political activities relating to a nomination contest.

2. Registration

2. Registration

This guideline explains how to register a political party, constituency association, candidate, and leadership or nomination contestant in Ontario under the *Election Finances Act*.

Registering a new political party

The following text explains how to reserve a political party name, and the two processes to qualify for registration: having at least two candidates in an election and the petition process.

Reservation of a political party name

1. A political party that intends to register with the Chief Electoral Officer must first complete the Request to Reserve Name of a Political Party Form. This form must be completed in full and submitted to the Chief Electoral Officer.

Submission and reservation of a political party name

2. (1) The Chief Electoral Officer will determine whether or not the name and abbreviation are acceptable for registration based on the following:

- a) The proposed name and abbreviation must not contain the word 'Independent';
- b) The proposed name and abbreviation must not be similar to another political party or entity in Canada;
- c) The proposed name and abbreviation must not be abusive or offensive; and
- d) An individual must not make multiple reservations of names and abbreviations.

(2) An acceptable name and abbreviation will be reserved for a year from the date of the Chief Electoral Officer's decision.

Qualifying for political party registration

3. A political party may register with the Chief Electoral Officer using one of two registration processes:

Process 1: During a campaign period by having two candidates

A political party intending to register during a general election (or concurrent by-elections) must:

2. Registration

- (i) if it has not already done so, submit its name reservation request to the Chief Electoral Officer no later than two days before the close of nominations to provide sufficient time for the registration process; and
- (ii) nominate and endorse a candidate in two or more electoral districts to represent it.

Process 2: Outside a campaign period by using the petition process

At any time other than a campaign period, a political party intending to register on the basis of a petition must collect 1,000 signatures from eligible voters using the Petition to Register a Political Party Form. These signatures must be collected within the year that the party name has been reserved. It is not permitted to collect signatures over a period of years. Beyond the one year period, the signatures must become "stale dated" and must not be used on an application for registration.

A petition must be submitted at least two months prior to a campaign period to provide sufficient time for the registration process.

Registering a leadership contest and contestant

The following text explains how to register as a leadership contestant in Ontario under the *Election Finances Act*.

Pre-Registration Activity

This section explains the requirements regarding holding a leadership contest and the activities prohibited prior to a leadership contestant registering under the *Election Finances Act*.

Holding a leadership contest

4. The Chief Electoral Officer (CEO) defines a leadership contest to be any procedure by which a registered political party elects a leader.

A registered political party that proposes to hold a leadership contest must file with Elections Ontario a statement setting out the date of the official call of the leadership contest and the date fixed for the leadership vote.

If a party charges a fee to become a contestant, the payment of that fee is not treated as a contribution to the party. However, the rules governing contributions apply when a registered contestant is collecting funds to pay such fees. Internal party contest rules and fees are not regulated by Elections Ontario.

2. Registration

Financial activity prior to registration

5. Prior to the date of registration, the financial activity of a person exploring the feasibility of becoming a leadership contestant is not regulated.

- a) Prior to registration, monies raised for registration fees and deposits are not considered to be contributions to a potential leadership contestant. Therefore, a prospective leadership contestant may raise or use personal monies for the administrative costs of fees and deposits to the registered political party.
- b) When the feasibility of entering a contest is no longer being explored, an individual seeking election as the leader of a party must register with Elections Ontario prior to accepting contributions and incurring expenses. A person is deemed to be seeking election as leader of a registered party as soon as the person incurs expenses for goods or services in relation to a leadership contest or accepts contributions in relation to a leadership contest.

The financial activity of a registered leadership contestant is regulated from the date of registration and the rules governing contributions apply.

Requirement to register

6. When the post of leader of a registered party has become vacant, a person who is seeking election as leader of the registered party is required to register even if the party has not officially called the contest.

A person is deemed to be seeking election as leader of a registered party as soon as the person incurs expenses for goods or services in relation to a leadership contest or accepts contributions in relation to a leadership contest.

Registering a constituency association

The following text explains how to register a constituency association in Ontario under the *Election Finances Act*.

Requirement to register

7. A constituency association needs to register with Elections Ontario in order to:

- a) receive contributions and issue tax receipts to its contributors; and
- b) finance its political activities.

Pre-registration requirements

The following text explains the registration requirements prior to submitting a constituency association registration form.

2. Registration

Appointing a CFO

8. A constituency association must appoint a CFO before registering with Elections Ontario.

Political party requirements

9. As a constituency association endorsed by a registered political party, there may be certain preregistration requirements specific to the political party that must be met. Consult with your political party for any requirements.

Statement of assets and liabilities

10. As part of its application for registration, the CFO of the constituency association must provide Elections Ontario with a Statement of Assets and Liabilities as of a date within 90 days of the date of its application for registration.

This initial statement is not required to be audited. However, it must be attested to by the CFO of the constituency association and the attestation must be witnessed.

Endorsement by political party

11. The registered political party endorsing the constituency association must certify the endorsement as part of the application for registration. A party official must either sign the Constituency Association Registration and Change Notice Form or, if endorsing multiple constituency associations at the same time, submit a letter of endorsement. The letter of endorsement must be sent to Elections Ontario stating the constituency association endorsed by the political party.

Endorsement by an independent member

12. The independent member endorsing the constituency association must certify the endorsement as part of the application for registration. The independent member must sign the Constituency Association Registration and Change Notice Form.

Registering a nomination contest and contestant

The following text explains how to register as a nomination contestant in Ontario under the *Election Finances Act*.

Pre-Registration Activity

This section explains the requirements of a registered political party or a registered constituency association holding a nomination contest.

2. Registration

Holding a nomination contest

13. A registered political party or a registered constituency association that proposes to hold a nomination contest must file with Elections Ontario a statement setting out the date of the official call of the nomination contest and the date fixed for the nomination vote (Notice of Nomination Contest Form).

If a party charges a fee to become a contestant, the payment of that fee is not treated as a contribution to the party or constituency association. However, once a contest is called, the rules governing contributions apply when a contestant is collecting funds to pay such fees. Internal party contest rules and fees are not regulated by Elections Ontario.

Registering a nomination contestant

14. A nomination contestant must register with Elections Ontario in order to receive contributions and finance political activities in a contest period.

Anyone who actively engages in the contest must register with Elections Ontario as soon as Elections Ontario is advised one is taking place.

Registering a candidate

The following text explains how to register as a candidate in Ontario under the *Election Finances Act*.

Registration under the *Election Finances Act* is achieved by filing the Candidate Nomination Paper.

Prior to an election period

15. Candidate Nomination Papers can be filed with Elections Ontario at any time prior to the nomination period.

During the six-month period before the writ of election is issued, when a nomination paper has been accepted and approved, Elections Ontario will issue a Certificate of Nomination indicating that:

- a) the applicant will be a candidate in the election and they will be referred to as a pre-certified candidate; and
- b) after the writ of election is issued, they will be referred to as a registered candidate.

A pre-certified candidate may not receive contributions or incur expenses until the writ of election is issued and they are deemed registered.

2. Registration

During an election period

16. Nomination papers may be filed with the returning officer for the electoral district during the nomination period.

If approved, a Certificate of Nomination will be issued by the Returning Officer.

A person is deemed a registered candidate on and from the day the Certificate of Nomination has been issued.

Contents of application and filing methods

The following text explains the content of a registration application for a political party, constituency association, candidate, and leadership or nomination contestant, and the delivery methods.

Contents of application

17. The registration requirements are contained within the prescribed Registration and Change Notice Form specific to a political party, constituency association, candidate, leadership or nomination contestant and requires, among other things, information at the time of making the application regarding the officers of the applicant and who is appointed as the chief financial officer.

Appointment of auditors

18. An auditor is a person or firm whose partners living in Ontario are licensed under the *Public Accounting Act, 2004* and cannot be a returning officer, deputy returning officer, election clerk, candidate, leadership contestant, chief financial officer of a registered political party, constituency association, leadership contestant or candidate.

Political parties and constituency associations

A political party or constituency association must appoint an auditor within 30 days of receiving at least \$10,000 in contributions or incurring expenses of at least \$10,000 with respect to a calendar year or election.

Leadership contestants

A leadership contestant must appoint an auditor within 30 days of receiving at least \$10,000 in contributions or incurring expenses of at least \$10,000 with respect to a leadership contest.

Candidates

A candidate must appoint an auditor within 30 days of receiving at least \$10,000 in contributions or incurring expenses of at least \$10,000 with respect to an election.

2. Registration

Application filing methods

19. The Chief Electoral Officer must accept the completed Registration and Change Notice Forms for a political party, constituency association, candidate, leadership or nomination contestant by any delivery method so long as the application is complete and the dates of delivery and receipt are known.

Effective dates of registration

The following text explains the effective date of registration for a political party, constituency association, candidate, and leadership or nomination contestant.

Effective date of registration for a political party, constituency association, leadership or nomination contestant

20. The Chief Electoral Officer must register a political party, constituency association, leadership or nomination contestant upon approval of the completed Registration and Change Notice Form.

Effective date of registration for a candidate

21. The Chief Electoral Officer must register a candidate upon approval of the completed Candidate Nomination Paper and the writ of election is issued.

Statement of fundamental purpose for a political party

22. A registered political party must file the required Statement of Fundamental Purpose at the time of registration and in subsequent years on or before May 31 of each year.

Notification to the Chief Electoral Officer when chief financial officers change

23. Among other requirements when registration information changes, if the chief financial officer ceases to hold office for a registered political party, constituency association, candidate, leadership or nomination contestant, another chief financial officer must immediately be appointed and an amended Registration and Change Notice Form containing the name and contact information of the new chief financial officer must be filed immediately.

Types of deregistration

The following text explains the types of deregistration for a political party or constituency association: voluntary, discretionary, and mandatory.

2. Registration

Voluntary deregistration by a political party

24. A registered political party may make a request in writing to the Chief Electoral Officer to be deregistered.

Voluntary deregistration by a constituency association

25. A registered constituency association may make a request in writing to the Chief Electoral Officer to be deregistered. This request must be accompanied by the approval of the registered political party.

Discretionary deregistration of a political party by the Chief Electoral Officer

26. (1) The Chief Electoral Officer may deregister a registered political party where:

- a) the political party fails to immediately appoint a new chief financial officer or fails to inform the Chief Electoral Officer in writing within 30 days of any registration information changes;
- b) the chief financial officer of the political party fails to file annual or campaign period financial statements;
- c) the leader fails to file the Annual Statement of Fundamental Purpose Form; or
- d) the political party fails, in the Chief Electoral Officer's opinion, to participate in public affairs in accordance with its statement of fundamental purpose.

(2) The process and steps involved prior to discretionary deregistration can be referred to in the *Election Finances Act*.

Discretionary deregistration of a constituency association by the Chief Electoral Officer

27. The Chief Electoral Officer may deregister a registered constituency association where:

- a) the constituency association fails to immediately appoint a new chief financial officer or fails to inform the Chief Electoral Officer in writing within 30 days of any registration information changes; or
- b) where the chief financial officer fails to file annual or campaign period financial statements.

2. Registration

Mandatory deregistration of a political party and its constituency associations by the Chief Electoral Officer

28. The Chief Electoral Officer must deregister a registered political party, as well as its constituency associations, if the political party registers fewer than two candidates at a general election.

Mandatory deregistration of an independent constituency association by the Chief Electoral Officer

29. The Chief Electoral Officer must promptly deregister the constituency association of an independent member and must send it notice of the deregistration, by registered mail, if the member:

- a) commences representing a registered party in the Assembly;
- b) is nominated as a candidate of a registered party; or
- c) is not re-elected at an election as a member of the Assembly.

Consequences of deregistration

The following text explains the consequences of deregistration for a political party and constituency association.

Disposition of a political party's funds on deregistration

30. (1) When a registered political party is deregistered, all its funds that are not required to pay outstanding debts must be paid to the Chief Electoral Officer, who must hold them in trust for the political party.

(2) If the political party does not become re-registered within two years after its deregistration, the funds must become the property of the Chief Electoral Officer.

Disposition of a constituency association's funds on deregistration

31. (1) When a registered constituency association is deregistered, all its funds that are not required to pay outstanding debts must be paid to the Chief Electoral Officer, who must hold them in trust for the constituency association.

(2) In the case of a constituency association endorsed by a registered political party, if the constituency association does not become re-registered within two years after its deregistration, the funds must become the property of the registered political party concerned.

2. Registration

(3) In the case of a constituency association endorsed by an independent member of the Legislative Assembly, if the constituency association does not become re-registered within two years after its deregistration, the funds must become the property of the Chief Electoral Officer for their use in carrying out their functions under the *Election Finances Act*.

Constituency associations connected to a deregistered political party

32. When a registered political party is deregistered, all registered constituency associations of that political party must also be deregistered.

Filing requirements for a deregistered political party or constituency association

33. When a registered political party or constituency association applies in writing to the Chief Electoral Officer for voluntary deregistration:

- a) the chief financial officer must at the same time provide the statements of assets and liabilities and of income and expenses of the political party or constituency association for which the chief financial officer acted; and
- b) these statements together with the auditor's report (if applicable) must cover the period that starts on the day after the most recent period for which a financial statement has been filed and ends on the date of deregistration.

How to reregister after being deregistered for failure to file?

34. A political party or constituency association deregistered as a result of failure to meet financial statement reporting requirements may not apply for registration until the financial statements and the auditor's report (if applicable) have been filed with and approved by the Chief Electoral Officer.

3. Contributions

3. Contributions

This guideline explains administering contributions, the sources, limits, and forms for a political party, constituency association, candidate, and leadership or nomination contestant.

Sources of contributions

The following text explains the sources of contributions to a political party, constituency association, candidate, and leadership or nomination contestant.

Eligible contributors to a political party, constituency association, candidate, leadership or nomination contestant

1. (1) Contributions to political parties, constituency associations, nomination contestants, candidates and leadership contestants registered under this Act may be made only by persons individually. This includes contributions from trust funds made by the fund trustee. All contributions are subject to the contribution limit in place at the time the contribution is made.

(2) No registered political party, constituency association, candidate, leadership or nomination contestant must accept an anonymous contribution.

(3) A registered political party, constituency association, candidate, leadership or nomination contestant may accept directed contributions so long as the contribution does not have the effect of contravening a requirement or limit in the *Election Finances Act*.

(4) No registered political party, constituency association, candidate, leadership or nomination contestant must accept a conditional contribution. A conditional contribution is a contribution where the contributor, as a condition of making the contribution, requires the recipient to return a material benefit to the contributor in addition to providing a tax receipt.

Eligible contributors to a political party or constituency association

2. A registered political party or constituency association may also accept contributions from a deceased person's estate.

Eligible contributions to a political party, constituency association, candidate, leadership or nomination contestant

3. Only contributions solicited for the purposes of the *Election Finances Act* must be considered to be a contribution to a registered political party, constituency association, candidate, leadership or nomination contestant.

3. Contributions

Source of contributor's funds

4. No registered political party, constituency association, candidate, leadership or nomination contestant or person acting on its, his or her behalf must solicit or knowingly accept any contribution that is not made in the contributor's own funds.

Use of own funds by a candidate or leadership contestant

5. (1) A registered candidate may make contributions, to be used for the candidate's own campaign, and out of the candidate's own funds, that do not exceed \$10,000 in total during a campaign period.

(2) A registered leadership contestant may make contributions, to be used for the contestant's own leadership campaign, and out of the contestant's own funds, that do not exceed \$50,000 in total during a leadership contest period, combined with any period during which the contestant is required to be registered.

(3) A statement of expenses paid by a registered candidate or leadership contestant using his or her own funds must be provided to the chief financial officer with accompanying receipts and vouchers within three months after the polling day or leadership voting day.

Affiliated political organizations

6. (1) An affiliated political organization may make a contribution to a political party with which it is affiliated, a constituency association with which it is affiliated and a candidate endorsed as an official candidate by the affiliated political party or constituency association.

(2) An affiliated political organization must not accept a contribution from any person or entity other than a political party or constituency association. However, such organizations may hold specific fund-raising activities under the sponsorship of a political party, constituency association or candidate provided that the entire proceeds inclusive of a statement of income and expense of each activity are turned over to the appropriate chief financial officer.

Maximum contributions

The following text explains the contribution limits for a political party, constituency association, candidate, and leadership or nomination contestant.

3. Contributions

Contribution limits for a political party, constituency association, candidate, leadership or nomination contestant

7. The limits on contributions that may be accepted by a registered political party, constituency association candidate, leadership or nomination contestant are set out below.

Political Parties

The contributions that a person makes to any one registered party must not exceed, in a calendar year, \$3,300 plus \$25 for each calendar year that has begun on or after January 1, 2022.

Constituency associations and nomination contestants endorsed by a political party

The contributions that a person makes to registered constituency associations and registered nomination contestants of any one registered party or to the constituency association of any independent member must not exceed, in a calendar year, \$3,300 plus \$25 for each calendar year that has begun on or after January 1, 2022.

Candidates endorsed by a political party

The contributions that a person makes to registered candidates of any one registered party must not exceed, in a campaign period, \$3,300 plus \$25 for each calendar year that has begun on or after January 1, 2022.

Independent candidates

The contributions that a person makes to all registered candidates not endorsed by a registered party must not exceed, in a campaign period, \$3,300 plus \$25 for each calendar year that has begun on or after January 1, 2022.

Leadership contestant

The contributions that a person makes to any one registered leadership contestant of a registered party must not exceed, in a calendar year that falls during a leadership contest period or during which the contestant is required to be registered by virtue of subsection 14 (2.1), \$3,300 plus \$25 for each calendar year that has begun on or after January 1, 2022.

Forms of contributions

The following text explains the two types of contributions: monetary and non-monetary.

3. Contributions

Monetary contributions

8. A monetary contribution to a registered political party, constituency association, candidate, leadership or nomination contestant that exceeds \$25 must be made by any modern financial practice where the contributor and the account information can be confirmed.

Crowdfunding, or crowdsourcing, through the internet for contributions is also permitted, provided that the proceeds are accompanied by information that allows the CFO to trace and track contributions from individual donors. If for any reason a CFO cannot facilitate the collection of this information for crowd-funded proceeds, then it should not accept contributions through these means. Contributions must be from eligible contributors, using their own funds, and within the contribution limits.

Where there is a processing fee, the full amount sent by a contributor is the contribution amount and the processing fee is an expense.

Non-monetary contributions

The following text explains non-monetary contributions: cryptocurrency, goods and services, and political advertising.

Cryptocurrency

Contributions in the form of cryptocurrencies are considered to be non-monetary contributions.

Contributions of cryptocurrency are permitted, provided that they are accompanied by information that allows the CFO to trace and track the individual donor. Contributions must be from eligible contributors, using their own funds, and within the contribution limits.

The amount of contribution to be recorded is the commercial value of the cryptocurrency in Canadian dollars at the time that it was received, based on the actual exchange rate or the rate on a major exchange platform. The amount of the contribution should be recorded as a contribution of goods and services with an offsetting other asset account. Any transaction fees incurred should be recorded as an expense.

Goods and services contributions

9. (1) Goods or services accepted by a registered political party, constituency association, candidate, leadership or nomination contestant may be considered a contribution. If the goods and services are valued in excess of \$100 they are considered a contribution and must be recorded.

3. Contributions

(2) Goods and services provided to a registered political party, constituency association, candidate, leadership or nomination contestant are not contributions if:

- a) the goods are produced by voluntary labour which are not paid for by the registered political party, constituency association, candidate, leadership or nomination contestant; or
- b) the aggregate value of all goods and services provided by the donor in a calendar year is \$100 or less, and the donor indicates that the value is not to be considered a contribution.

(3) The value of goods and services supplied is deemed to be fair market value for similar goods or services at the time of their provision.

Goods and services provided for a price less than fair market value

10. Where goods and services are provided to a registered political party, constituency association, candidate, leadership or nomination contestant for a price that is less than the fair market value, the amount that the price is less than such fair market value must be considered a contribution.

Supporting documentation for goods and services

11. (1) The contribution of goods and services must be supported by an invoice from the supplier of the goods and services.

(2) Where a person provides services and part or all of the agreed upon fee is considered by the person to be a contribution, the person must submit a statement of account and indicate on it the amount which the contributor considers a contribution for the services performed.

Advertising constituting a contribution

12. (1) Political advertising constitutes a contribution if:

- a) it promotes a registered party, the nomination of a registered nomination contestant, the election of a registered candidate or the leadership of a registered leadership contestant;
- b) it is provided or arranged for by a person, organization or entity in coordination with the party, contestant or candidate, or the registered constituency association of the candidate; and
- c) its value is more than \$100.

(2) Political advertising must not constitute a contribution if it is provided by a broadcasting undertaking without charge in accordance with the *Broadcasting Act (Canada)*.

3. Contributions

Contributions accepted by a political party on behalf of its constituency associations or candidates

13. (1) A registered political party may accept contributions of money, but not goods and services on behalf of its registered constituency associations or candidates and must forward these “agency” contributions to such constituency associations or candidates.

(2) Contributions may only be accepted on behalf of a registered candidate during the campaign period.

(3) Before contributions are accepted on behalf of any registered constituency association or candidate, a registered political party must establish a general trust account with a financial institution for all agency contributions to be deposited and provide the Chief Electoral Officer with the name and address of the financial institution, and the names of the signing officers.

Fees for certain meetings may be considered a contribution

14. (1) Funds given to a registered political party or constituency association covering fees for meetings, seminars, workshops or conferences, provided that such events are sponsored by the political party or constituency association, and are held in Ontario, may be considered a contribution and are eligible for a tax receipt subject to the maximum contribution limit.

(2) Attendance at such events is considered to be part of the Ontario political process and, therefore, such contributions are accepted for the purposes set forth in the *Election Finances Act*. Where the registration fee includes hotel, meal and travel costs, the entire amount of the fee may be considered to be a contribution subject to the maximum contribution limit.

Administering contributions

The following text explains accepting, recording, returning, and disclosing contributions.

Accepting, recording and disclosing contributions for a political party using an electronic database for recording contributions and issuing tax receipts

15. If a registered political party is required or has chosen to maintain an electronic database for recording contributions and issuing tax receipts, sections 5 to 7 and 10 of the *Electronic Database Guidelines* apply with

3. Contributions

respect to accepting, recording and disclosing contributions for the political party.

Accepting of contributions

16. (1) All money accepted by or on behalf of a registered political party, constituency association, candidate, leadership or nomination contestant must only be deposited into a bank account on record with the Chief Electoral Officer.

(2) Only the chief financial officer or other authorized persons on record with the Chief Electoral Officer may accept contributions.

Recording of contributions

17. The chief financial officer must record the details of all contributors and contributions accepted:

- a) on behalf of a registered political party or constituency association during a campaign period separately from those contributions accepted on behalf of the political party or constituency association during the year excluding the campaign period;
- b) on behalf of a registered candidate during any campaign period;
- c) on behalf of a registered leadership contestant during any leadership contest period; or,
- d) on behalf of a registered nomination contestant during any nomination contest period.

Return of contributions

18. (1) Where any contribution accepted by or on behalf of a registered political party, constituency association, candidate, leadership or nomination contestant is in contravention of the *Election Finances Act*, the chief financial officer must, within thirty days of so learning, return to the contributor an amount equal to the sum contributed.

(2) Any such contribution not returned to the contributor or any anonymous contribution accepted by a registered political party, constituency association, candidate, leadership or nomination contestant must not be used for any other purpose and must be paid to the Chief Electoral Officer.

Public disclosure

19. It is recommended that contributors donating more than \$200 be notified that their names and addresses will be recorded and submitted with the

3. Contributions

financial statements, and that their names and amounts will be published by Elections Ontario on the Elections Ontario website.

20. The amount and name of the contributor of any monetary contribution recorded by a registered political party or leadership contestant that has a total exceeding \$200 from a single source must be disclosed to the Chief Electoral Officer within 15 business days of deposit.

4. Tax Receipts

4. Tax Receipts

This guideline explains tax receipting by an eligible registered political entity: political party, constituency association, candidate, and leadership contestant.

Tax receipts for a political party using an electronic database for recording contributions and issuing tax receipts

1. (1) Elections Ontario must assess and approve any electronic database before it can be used by a registered political party for recording contributions and issuing tax receipts

(2) If a registered political party is required or has chosen to maintain an electronic database for recording contributions and issuing tax receipts, section 8 of the *Electronic Database Guidelines* applies.

Obtaining tax receipts for a political party, constituency association, candidate or leadership contestant

2. If a registered political party is not required to and has not opted to maintain an electronic database for recording contributions and issuing tax receipts, blank tax receipts must be supplied by the Chief Electoral Officer to chief financial officers upon request.

Eligibility of contributions for tax receipts

3. Every registered political party, constituency association, candidate or leadership contestant must issue tax receipts in the form required or approved by the Chief Electoral Officer for every contribution accepted.

Issuing tax receipts

4. (1) Only the chief financial officer and persons authorized to accept contributions must issue tax receipts under their signatures for a registered political party, constituency association, candidate or leadership contestant since it is their responsibility to ensure that all contributions allowed under the *Election Finances Act* are acknowledged by the issuance of tax receipts.

(2) Only the net amount of a donation that is treated as a contribution is eligible for a tax receipt.

Reporting of tax receipts

5. (1) The chief financial officer of a registered political party, constituency association, candidate or leadership contestant must submit a copy of all

4. Tax Receipts

issued tax receipts, cancelled and void tax receipts, and cancellation notices, to the Chief Electoral Officer.

(2) The chief financial officer must also submit to the Chief Electoral Officer a reconciliation of all tax receipts, which consists of all unused tax receipts at the commencement of the particular period, issued tax receipts, cancelled and voided tax receipts, lost and destroyed tax receipts, and those remaining at the end of the period.

Cancellation of tax receipts

6. (1) Any tax receipt issued for an ineligible contribution that will be or has been returned to the contributor must be cancelled after learning of its ineligibility by:

- a) retrieving the contributor's copy of the original receipt issued and after recovering the receipt, refunding the ineligible contribution to the contributor; or
- b) issuing a cancellation notice to the contributor within thirty days to cancel the original receipt and forwarding a copy of the cancellation notice to the contributor along with a refund cheque for the ineligible contribution.

(2) If the original receipt for cancellation cannot be retrieved and a cancellation notice cannot be issued, the amount of the contribution must be remitted to the Chief Electoral Officer.

5. Non-Contribution Income

5. Non-Contribution Income

This guideline explains non-contribution income: collection of money at general meetings, membership fees, and transfers.

Collection of money at a general meeting for a political party, constituency association or candidate

1. Where funds are raised at a general meeting for a registered political party, constituency association or candidate amounts of \$10 or less may be given and are not considered to be contributions to the political party, constituency association or candidate.

Annual membership fees for a political party or constituency association

2. (1) An annual membership fee paid for membership in a registered political party and/or constituency association must be treated as a contribution unless:

- a) the total fee paid to the political party or constituency association in aggregate does not exceed \$25; and
- b) the political party or constituency association maintains a membership list indicating the amount of fees paid by each member.

(2) Pricing of membership categories and treatment of those categories either as a contribution or not must be consistent.

Transfer of funds, goods and services

The following text explains allowable and prohibited transfers.

Allowable transfers for a political party, constituency association, leadership contestant or candidate

3. (1) A registered political party, its constituency associations or its candidates may transfer or accept funds, goods and services.

(2) A registered independent member's constituency association or its candidate may transfer or accept funds, goods and services.

(3) A registered political party and its leadership contestants may transfer or accept funds, goods and services.

(4) All such funds, goods and services accepted must not be considered contributions but their source must be recorded.

5. Non-Contribution Income

Allowable transfers between a political party and a federal political party

4. (1) A registered political party may accept funds from a registered federal political party only during a provincial campaign period and only up to \$100 for each registered candidate endorsed by that political party. Such funds must be considered transfers and not contributions.

(2) A registered political party may transfer funds to a registered federal political party only during a federal election and only up to \$100 for each candidate in a federal electoral district in Ontario who is endorsed as a candidate by that federal party.

Prohibited transfers and contributions for a political party, constituency association, candidate, leadership or nomination contestant

5. (1) A registered political party, constituency association, candidate, leadership or nomination contestant must not directly or indirectly contribute or transfer funds to:

- a) any candidate in a municipal election under the *Municipal Elections Act, 1996*; or
- b) any federal party, constituency association or candidate at a federal election; or
- c) any federal nomination contestant or leadership contestant.

(2) A registered political party, constituency association, candidate, leadership or nomination contestant must not transfer funds to an unregistered political party, constituency association, candidate, leadership or nomination contestant.

Prohibited transfers and contributions between a constituency association and a leadership contestant

6. A registered constituency association must not directly or indirectly contribute or transfer funds to, or accept funds from, a registered leadership contestant.

6. Fund-raising

6. Fund-raising

This guideline explains fund-raising events, related contribution treatments and reporting requirements.

Fund-raising

1. Fund-raising events are events held for the purpose of raising monies for a registered party, constituency association, nomination contestant, candidate or leadership contestant registered under this Act by whom or on whose behalf the event is held, and where a charge by the sale of tickets or otherwise is made for attendance.

Information to be included in materials for a fund-raising event

2. The name of the registered political party, constituency association, candidate, leadership or nomination contestant sponsoring a fund-raising event must be clearly displayed on all materials distributed for that event. This includes any solicitation for contributions.

Information to be posted on party website for fund-raising events

3. (1) Every registered party to which section 25.1 applies must post on its website the following information respecting every fund-raising event to be held by or on behalf of the party, its constituency associations and candidates:

- a) the date of the fund-raising event;
- b) the location of the fund-raising event;
- c) the amount of the charge for attending the fund-raising event; and
- d) the identity of the recipient or recipients of the funds to be raised at the fund-raising event.

(2) The registered party must post the information described above at least three days before the date of the fund-raising event.

Net value of a contribution

4. For purposes of recording contributions and issuing tax receipts for a fund-raising event where required, if:

- a) an eligible contributor provides a donation; and

6. Fund-raising

b) receives back a rebate in the form of money or of goods

then the value of this rebate must be subtracted from the amount of the contributor's donation to arrive at the net amount of the contribution. This net amount determines the tax receipt amount that must be issued where required. Only the net amount of the donation must be treated as a contribution.

Fund-raising ticket sales up to \$30 above cost may not be treated as a contribution

5. A registered political party, constituency association, candidate or leadership contestant holding a fund-raising activity has the option of considering an additional portion of the ticket price, up to a maximum of \$30 per ticket above the direct costs of the fund-raising activity, not to be a contribution.

Goods and services supplied for a fund-raising event

6. (1) The value of goods and services supplied for a fund-raising event is deemed to be the fair market value for similar goods or services.

(2) Goods and services supplied for a fund-raising event are considered to be a contribution if the aggregate value of all goods and services provided by a supplier is greater than \$100, with the exception of voluntary unpaid labour and goods voluntarily produced by such labour.

Goods and services offered for sale at a fund-raising event

7. (1) Any amount paid for goods or services, other than advertising services, offered for sale during a fund-raising event in excess of its fair market value must be considered a contribution.

(2) Any amount paid for advertising as a fund-raising activity must be a contribution.

Recording and disclosure of fund-raising

8. The gross income from each fund-raising event, separated between ticket sales and other income, must be recorded in the period the activity is held and reported to the Chief Electoral Officer with the financial statements.

7. Loans and Guarantees

7. Loans and Guarantees

This guideline explains loans and guarantees by a registered political party, constituency association, candidate, and leadership or nomination contestant.

Borrowing sources

1. A registered political party, constituency association, candidate, leadership or nomination contestant must only borrow funds from:

- a) a financial institution; or
- b) a registered political party or constituency association.

Financial institution means,

- a) a bank or authorized foreign bank within the meaning of section 2 of the *Bank Act (Canada)*,
- b) a corporation registered under the *Loan and Trust Corporations Act*,
- c) a credit union within the meaning of the *Credit Unions and Caisses Populaires Act, 2020*, or
- d) a retail association as defined under the *Cooperative Credit Associations Act (Canada)*.

2. No person, including a candidate, is permitted to make a loan.

3. Any delay in paying suppliers or other liabilities may be deemed to be a loan from an ineligible source by the Chief Electoral Officer.

When to receive a loan?

The following text explains the timing of loans for a registered political party, constituency association, candidate, and leadership or nomination contestant.

Timing for a political party or constituency association

4. A registered political party or constituency association may borrow at any time as part of its ongoing regular operations.

Timing for a candidate

5. A candidate may borrow only during the campaign period and once he or she is registered with the Chief Electoral Officer.

7. Loans and Guarantees

Timing for a leadership or nomination contestant

6. A leadership or nomination contestant may borrow for the leadership or nomination contest only after he or she is registered with the Chief Electoral Officer.

Guarantees and collateral security

7. (1) A political party, constituency association, candidate, leadership or nomination contestant may only receive support in the form of a guarantee or collateral security from:

- a) an entity entitled to make a loan; or
- b) a person entitled to make a contribution.

(2) A guarantee is considered a contribution for the purposes of this Act, and contribution requirements and limits apply. But a guarantee is not receiptable until it is paid. Therefore, the limit on a guarantee for a new loan is the current contribution limit, which is applied to the guarantor's annual contribution limit.

Loans as contributions

8. (1) A loan to a political party, constituency association, candidate, leadership or nomination contestant is not considered a contribution, except as follows:

- a) If the financial institution waives the right to recover the loan, the amount waived is considered a contribution subject to the contribution limits; or
- b) If the loan is made at an interest rate lower than the applicable market rate, the interest forgone by the financial institution (the difference between the actual interest charged and the market rate) is considered a contribution and is subject to the contribution limits.

(2) If the borrower defaults on a loan, the financial obligation of the registered political party, constituency association, candidate, leadership or nomination contestant is transferred to the guarantor. If the guarantor waives the right to recover all or partial payment from the principal debtor, the amount waived by the guarantor is considered a contribution to the political party, constituency association, candidate, leadership or nomination contestant and is subject to the contribution limits. Terms of repayment must be reported to the Chief Electoral Officer.

7. Loans and Guarantees

Time Limits - loans and guarantees

9. Every political party, constituency association, candidate, leadership or nomination contestant that receives a loan must repay the loan in full no more than two years from:

- a) in the case of a nomination contestant, the date that a candidate is selected for the electoral district for the nomination contestant's party;
- b) in the case of a leadership contestant, the date that a leader is selected for the contestant's party;
- c) in the case of a candidate, polling day; or
- d) in the case of a party or constituency association, the day that the loan is due according to its terms.

No person must guarantee the loan for a period longer than the applicable period.

Responsibility for payment of candidate's deficit

10. A registered political party or constituency association must assume any deficit remaining from the campaign of a registered candidate endorsed as the official candidate of that political party or constituency association. The political party or constituency association must be responsible for ensuring that any borrowing is repaid.

Reporting of loans

11. Information regarding any borrowings by a political party, constituency association, candidate or leadership contestant must be reported to the Chief Electoral Officer as part of the financial statements.

8. Political Advertising

8. Political Advertising

This guideline explains political advertising: the authorization requirements, and the blackout period and survey restrictions for a registered political party, constituency association, candidate, third party or any person; and the spending limit for a political party.

Definition

1. Political advertising is defined as advertising or communications in any broadcast, print, electronic, or other medium with the purpose of promoting or opposing any registered political party or its leader or the election of a registered candidate. Political advertising includes advertisements in newspapers, journals, and magazines; promotion on TV and radio; and advertisements placed on lawn signs, billboards, bus shelters, and the Internet (including websites, blogs, and social networking sites), etc.

The definition of “political advertising” encompasses election-related advertising or communications that are expressly or impliedly directed to political parties or their leaders, candidates or platforms. It includes election-related advertising that takes a position on an issue of public policy that is closely associated with a registered party or its leader or a registered candidate in relation to an upcoming election (sometimes called “issue advertising”).

The Act restricts advertising that is expressly or impliedly related to an election, i.e. directed at parties and their leaders, candidates or platforms. On the other hand, the Act does not restrict public campaigns for or against particular legislative or policy initiatives which are not election-oriented, even when that advertising coincides with a regulated period for third party political advertising. In other words, issue advertising on matters of public importance that is not expressly or impliedly related to an election is not “political advertising” under the Act.

What is “closely associated”?

Determining whether a given issue is “closely associated” with a party, its leader, or a candidate will depend on which issues are likely to be addressed in the upcoming election campaign, or which are distinctly associated with a particular party, leader, or candidate in the public discourse, such that advertising relating to that issue is in effect an indirect advertisement for or against that party, leader, or candidate. A party’s own advertising, election platform, and talking points will all be relevant considerations in determining whether an issue is “closely associated” to a party, its leader, or a candidate.

8. Political Advertising

When election day is further away (for example, at the beginning of the “non-election period”), it will be less clear what issues are likely to be “closely associated” with a party, its leader, or a candidate in relation to the upcoming election. Advertising placed earlier in the non-election period is therefore less likely to constitute “political advertising” than advertising placed later in the non-election period or during the election period.

Whether issue advertising is election-oriented depends on the purpose for which the advertisement was placed. If the purpose of the advertising is to influence the outcome of an election, then the advertising falls within the definition of “political advertising”. If the purpose of the advertising is to promote a pre-existing advocacy campaign, it is less likely that this will be viewed as political advertising. Where an advertisement may have more than one purpose, the Chief Electoral Officer considers whether the main purpose of the advertisement is related to an election.

In determining whether advertising (including issue advertising) is “political advertising” the Chief Electoral Officer considers the following criteria:

- a) whether it is reasonable to conclude that the advertising was specifically planned to coincide with the period referred to in Spending Limits section;
- b) whether the formatting or branding of the advertisement is similar to a registered political party’s or registered candidate’s formatting or branding or election material;
- c) whether the advertising makes reference to the election, election day, voting day, or similar terms;
- d) whether the advertisement makes reference to a registered political party or registered candidate either directly or indirectly;
- e) whether there is a material increase in the normal volume of advertising conducted by the person, organization, or entity;
- f) whether the advertising has historically occurred during the relevant time of the year;
- g) whether the advertising is consistent with previous advertising conducted by the person, organization, or entity;
- h) whether the advertising is within the normal parameters of promotion of a specific program or activity; and

8. Political Advertising

- i) whether the content of the advertisement is similar to the political advertising of a party, constituency association, nomination contestant, candidate or leadership contestant registered under the Act.

The Chief Electoral Officer also considers any other relevant factors that may indicate that a particular advertisement is or is not related to an upcoming election.

While the Chief Electoral Officer will consider all of the circumstances relevant to any given advertisement, the Chief Electoral Officer considers it highly significant if the advertising includes any reference to the election, election day, voting day, or similar terms; or (ii) to a registered political party, its leader, or registered candidate (either directly or indirectly). Advertising that includes such references will generally constitute political advertising.

What is not political advertising?

Political Advertising does not include:

- a) the transmission to the public of an editorial, a debate, a speech, an interview, a column, a letter, a commentary or news;
- b) the distribution of a book, or the promotion of the sale of a book, for no less than its commercial value, if the book was planned to be made available to the public regardless of whether there was to be an election;
- c) communication in any form directly by a person, group, corporation or trade union to their members, employees or shareholders, as the case may be;
- d) the transmission by an individual, on a non-commercial basis on the Internet, of his or her personal political views; or
- e) the making of telephone calls to electors only to encourage them to vote.

Authorization on political advertising

2. (1) All pre-writ advertising sponsored or paid for by a registered political party or constituency association must name the registered political party or constituency association who is sponsoring or paying for it.

(2) All advertising appearing during the campaign period must name the registered political party, constituency association, candidate, third party or any person sponsoring or paying for it.

8. Political Advertising

Restrictions on political advertising during blackout period

3. (1) No registered political party, constituency association, candidate or third party must conduct paid commercial political advertising during a blackout period. Paid commercial political advertising excludes the official internet website of a registered political party, registered constituency association or registered candidate, or their authorized lawn signs, pamphlets, mass or individual mailings, automated or individual telephone calls, or social media communications.

(2) A blackout period includes the day before polling day and polling day for all elections.

(3) The following are exceptions of political advertising allowed during a blackout period:

- a) genuine news reporting, including interviews, commentaries, or other works prepared for and published by any newspaper, magazine, or other periodical publication in any medium without any charge to the registered political party, constituency association, candidate or third party. A broadcaster may similarly broadcast genuine news stories; however, these are subject to the provisions of and regulations and guidelines under the *Broadcasting Act (Canada)*;
- b) the publication of political advertising, on polling day or the day before polling day, in a newspaper that is published once a week or less often and whose regular day of publication falls on that day;
- c) a political advertisement on the internet or in a similar electronic medium, if posted before and not altered or further distributed during a blackout period;
- d) a registered political party's, constituency association's, or candidate's official website, including edits and updates to the website; and
- e) a political advertisement in the form of a poster or billboard, if posted before and not altered during a blackout period, such as advertisements on public transit buses, bus shelters, and subway stations.

Restrictions on election surveys

4. No person, corporation, trade union, registered political party, constituency association or third party must publish, broadcast or transmit to the public, in an electoral district on polling day before the close of all the polling stations in

8. Political Advertising

that electoral district, the results of an election survey that have not previously been made available to the public.

Advertising spending limit for political parties

5. The total political advertising expenses incurred by a registered political party during the six-month period immediately before the issue of a writ of election for a general election held in accordance with subsection 9(2) of the *Election Act*, must not exceed \$1,000,000, multiplied by the indexation factor determined under section 40.1 of the *Election Finances Act* for the calendar year and rounded to the nearest dollar.

9. Campaign Expenses

9. Campaign Expenses

This guideline explains campaign periods, and the related expenses and limits for a political party, constituency association and candidate.

Meaning of campaign expenses

1. (1) A campaign expense is any expense incurred for goods or services in relation to an election by or on behalf of a registered political party, constituency association or candidate for use in whole or in part during the period commencing at the start of the campaign period and terminating on polling day.

(2) A campaign expense includes the value of any goods held in inventory or prepaid expenses for services for any registered candidate or political party, and any contribution of goods and services to the registered political party, constituency association or candidate for use in whole or in part during the period commencing at the start of the campaign period and terminating on polling day.

(3) A campaign period is:

- a) in a fixed date general election, the period commencing at 12:01am on the day the writ for an election is issued and terminating three months after polling day; and
- b) in a by-election or general election with a non-fixed election date, the period commencing with the issuance of the writ for an election and terminating three months after polling day.

Campaign expense limit

The following text explains the campaign expense limit for a political party, and the joint limit for a candidate and the endorsing constituency association.

Number of electors for determining campaign expense limit

2. The number of electors, for purposes of determining the limit on campaign expenses for a registered political party or candidate and constituency association, is defined as the greater of:

- a) the number of electors shown in the preliminary list of electors provided to candidates; and
- b) the number of electors entitled to vote as determined by the Chief Electoral Officer after polling day.

9. Campaign Expenses

Campaign expense limit for a political party

3. The total campaign expenses incurred by a registered political party and anyone acting on behalf of the political party during a campaign period must not exceed the amount determined by the Chief Electoral Officer. The amount is calculated by multiplying the number of electors in each electoral district in which there is an official candidate of the political party by an indexed amount specified under section 38(2) of the *Election Finances Act* for the calendar year and rounded to the nearest cent.

Joint campaign expense limit for a candidate and constituency association

4. (1) The joint campaign expense limit of a registered candidate together with the registered constituency association endorsing that candidate must not exceed the amount that is determined by the Chief Electoral Officer. This is calculated by multiplying the number of electors in the candidate's electoral district by an indexed amount specified under section 38(3.1) of the *Election Finances Act* for the calendar year and rounded to the nearest cent.

(2) In the case of registered candidates in the electoral districts of Algoma-Manitoulin, Kenora-Rainy River, Kiiwetinoong, Mushkegowuk-James Bay, Nickel Belt, Thunder Bay-Atikokan, Thunder Bay-Superior North, and Timiskaming-Cochrane, the joint campaign expense limit is increased by a further indexed amount specified under section 38(3.4) of the *Election Finances Act* for the calendar year and rounded to the nearest cent.

(3) The total campaign expense incurred by a registered candidate includes expenses incurred by a registered political party acting on behalf of the candidate.

Campaign expenses not subject to campaign expense limit

5. Campaign expenses not subject to the campaign expense limit are:

- a) expenses incurred by a candidate in seeking nomination in accordance with the *Election Act*;
- b) expenses incurred by a registered candidate with disabilities that are directly related to the candidate's disabilities;
- c) auditor's and accounting fees;
- d) interest on authorized loans;
- e) expenses incurred in holding a fund-raising event;

9. Campaign Expenses

- f) expenses incurred for victory parties held and “thank you” advertising published after polling day;
- g) expenses incurred relating to the administration of a registered political party or constituency association;
- h) authorized transfers;
- i) fees paid for maintaining a credit card facility;
- j) expenses relating to a recount in respect of the election;
- k) child care expenses of a registered candidate;
- l) expenses relating to research and polling;
- m) travel expenses; and
- n) expenses incurred during the period from the day after polling day to the end of the campaign period.

Approval by candidate’s chief financial officer of constituency association’s spending on campaign expenses

6. A registered candidate’s chief financial officer must state in writing to a registered constituency association endorsing that candidate the aggregate amount the constituency association may spend during a campaign. No registered constituency association must spend in excess of this amount without written approval by the candidate’s chief financial officer.

Submission of payment claims to a political party, constituency association or candidate

7. Every person, corporation or trade union who has any claim for payment in relation to a campaign expense must submit such claim within three months after polling day to the chief financial officer of the registered political party, constituency association or candidate to which the expense relates.

10. Public Funding of Expenses

10. Public Funding of Expenses

This guideline explains the political party and candidate reimbursements, and political party and constituency association quarterly allowances.

Popular vote for determining reimbursement for a political party or candidate

1. The popular vote, for purposes of determining the reimbursement for a registered political party or candidate, is defined as the total ballots cast in an electoral district excluding those rejected, cancelled, declined or unused.

Conditions for reimbursement entitlement for a political party or candidate

2. (1) A registered political party or candidate is not entitled to a reimbursement unless the campaign period financial statements have been filed and the Chief Electoral Officer is satisfied that the political party or candidate meets the requirements of the *Election Finances Act*.

(2) For a registered candidate to be entitled to a reimbursement, the registered constituency association endorsing the candidate, if any, must also have satisfactorily filed its annual and campaign period financial statements.

Political party reimbursement

The following text explains the reimbursement entitlement and payments for a political party.

Reimbursement of a political party's expenses

3. (1) A registered political party is entitled to be reimbursed by the Chief Electoral Officer in each electoral district where its registered candidates receive at least 15 percent of the popular vote.

(2) For each electoral district in which the political party is eligible for reimbursement, the amount of the reimbursement must be the lesser of the total campaign expenses incurred and the amount determined by multiplying 5¢ by the number of electors entitled to vote in that electoral district.

Interim payment of reimbursement to a political party

4. The Chief Electoral Officer may, on receiving the financial statements and auditor's report, make an interim payment of up to 50 percent of the reimbursement amount to which a registered political party will be entitled once the Chief Electoral Officer is satisfied that the requirements of the *Election Finances Act* are met.

10. Public Funding of Expenses

Candidate reimbursement

The following text explains the reimbursement entitlement, and surplus or deficit treatment for a candidate.

Partial reimbursement of a candidate's campaign expenses

5. (1) Every registered candidate who receives at least 5 percent of the popular vote in his or her electoral district is entitled to be reimbursed by the Chief Electoral Officer for the lesser of:

- a) 20 percent of the campaign expenses of the candidate and registered constituency association endorsing the candidate for the campaign period, as shown on the campaign period statement of income and expenses filed with the Chief Electoral Officer; and
- b) 20 percent of the campaign expense limit to which the candidate and constituency association are subject.

(2) For registered candidates in the electoral districts of Algoma-Manitoulin, Kenora-Rainy River, Kiiwetinoong, Mushkegowuk-James Bay, Nickel Belt, Thunder Bay-Atikokan, Thunder Bay-Superior North, and Timiskaming-Cochrane, the amount of reimbursement is increased by an indexed amount specified under section 38(3.4) of the *Election Finances Act* for the calendar year and rounded to the nearest cent.

Deficit in a candidate's account

6. Where a registered candidate's financial statements show a deficit, the deficit must be treated as follows:

- a) First, any reimbursement that the candidate is entitled to must be applied to reduce the deficit; then
- b) Any remaining deficit must, in the case of a candidate endorsed by a registered political party, be assumed by the registered constituency association endorsing that candidate.

Surplus in a candidate's account

7. Any surplus, determined by taking into account a registered candidate's financial statements and any partial reimbursement that the candidate is entitled to, must be immediately paid:

- a) in the case of a candidate endorsed by a registered political party, to the political party or to the registered constituency association endorsing that candidate; or
- b) in the case of an independent candidate,

10. Public Funding of Expenses

- (i) to their registered constituency association, if the candidate has been elected as an independent member and has endorsed a registered constituency association, or
- (ii) to the Chief Electoral Officer.

Political Party Quarterly Allowance

The following text explains the quarterly allowance eligibility and calculation for a political party.

Eligibility Requirement

8. A party is eligible to receive a quarterly allowance if, in the last general election, it received:
- a) 2% of valid votes cast province wide, or
 - b) 5% of valid votes cast in an electoral district where the party ran a candidate.

Calculation of Quarterly Allowance

9. The allowance paid in each quarter is calculated by multiplying the quarterly rate for that year by the number of valid votes a party’s candidates received in the previous general election. The quarterly rates are shown below.

Quarterly Rates

10. The quarterly allowance rates:

Year	Quarterly Rate
2021 to 2024	\$0.636
2020	\$0.552
2019	\$0.594
2018	\$0.636
2017	\$0.678

Constituency Association Quarterly Allowance

11. A quarterly allowance is assigned to each electoral district which is shared amongst associations based on the percentage of the valid votes their candidate received in the last election. Quarterly Allowances are paid to registered constituency associations if they meet the following eligibility criteria:

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- a) a candidate must have received at least 2% of the valid votes cast in that electoral district for their registered constituency association to qualify for the allowance; and
- b) an allowance is only payable to a registered constituency association for a quarter if all documents that it was required to file with Elections Ontario in the four-year period immediately before the quarter have been filed and are complete.

12. For an independent member's constituency association, if the independent member is re-elected, an amount is payable to the member's registered constituency association based on the percentage of the total number of valid votes the member received as a candidate in the electoral district at the most recent election. In addition, if the independent member was elected as a candidate of a registered party, the registered constituency association of the registered party remains entitled to the amount it would otherwise receive.

11. Financial Statements

11. Financial Statements

This guideline explains the required financial statements for a registered political party, constituency association, candidate, or leadership contestant, and the consequences for the failure to file.

When is an audit required?

1. A CFO must file audited financial statements for reporting periods where at least \$10,000 in contributions was accepted or expenses of at least \$10,000 were incurred.

Content and filing date

The following text explains the reporting periods and required annual, campaign, and contest period financial statements or declarations for a registered political party, constituency association, candidate, and leadership contestant.

Annual financial statements for a political party or constituency association

2. The chief financial officer of a registered political party or constituency association must file signed, annual financial statements and supporting documentation with the Chief Electoral Officer on or before May 31 of each following year:

- a) for the political party, excluding the income and expenses relating to an election received or incurred in a campaign period; or
- b) for the constituency association, excluding all income and expenses received or incurred in a campaign period.

Campaign period definition

3. A campaign period is:

- a) in a fixed date general election, the period commencing at 12:01 am on the day the writ for an election is issued and terminating three months after polling day; and
- b) in a by-election or general election with a non-fixed election date, the period commencing with the issuance of the writ for an election and terminating three months after polling day.

11. Financial Statements

Campaign period financial statements for a political party, constituency association or candidate

4. The chief financial officer of a registered political party, constituency association or candidate must file signed campaign period financial statements and supporting documentation with the Chief Electoral Officer within six months after polling day:

- a) for the political party, of only the income and expenses relating to the election received or incurred in the campaign period; or
- b) for the constituency association or candidate, of all income and expenses received or incurred in the campaign period.

5. In relation to a by-election, a political party or constituency association may file a declaration that no contributions or expenses relating to the by-election were received or incurred. This replaces the requirement to file campaign period financial statements.

Leadership contest period financial statements for a leadership contestant

6. The chief financial officer of a registered leadership contestant must make two separate filings of signed leadership contest period financial statements with the Chief Electoral Officer:

- a) The first statement must be filed within six months after the date of the leadership vote and includes the period from the date of the official call for the leadership contest to two months after the date of the leadership vote.
- b) The second statement must be filed within twenty months after the date of the leadership vote and includes the twelve-month period that begins two months after the date of the leadership vote.
- c) The \$10,000 threshold for audit is a cumulative threshold and should not be treated separately for each reporting period.

Surplus for a leadership contestant

7. Any surplus shown in the second statement filed by a registered leadership contestant must be paid to the registered political party that held the leadership contest.

Deficit for a leadership contestant

8. Any deficit shown in the second statement filed by a registered leadership contestant must require filing of a separate schedule listing unpaid debts and

11. Financial Statements

a statement of how these debts must be discharged. Money used to discharge the campaign deficits of leadership contestants will be treated as a contribution and the contribution restrictions set out in the *Election Finances Act* apply.

9. Where a registered political party agrees to pay these debts, a letter must be forwarded with this filing signed by a party official which clearly confirms this undertaking.

Failure to file financial statements for a political party or constituency association

10. Where the chief financial officer of a registered political party or constituency association fails to file any part of the annual or campaign period financial statements, the political party or constituency association may be deregistered.

Failure to file financial statements for a candidate or leadership contestant

11. Where the chief financial officer of a registered candidate or leadership contestant who is not elected fails to file any part of the financial statements, the candidate or leadership contestant must be ineligible to stand as a candidate at any election up to and including the next general election until the complete financial statements are filed with the Chief Electoral Officer.

12. Where the chief financial officer of an elected candidate or leadership contestant fails to file any part of the financial statements, the Chief Electoral Officer must notify the Speaker, who must inform the Assembly, and the candidate or leadership contestant may lose his or her seat in the Assembly.

12. Third Parties

12. Third Parties

This guideline explains third party political advertising, restrictions, the requirement and process to register, contributions, transfers, expenses and spending limits, collusion, and reporting requirements.

Definitions

1. Political advertising is defined as advertising or communications in any broadcast, print, electronic, or other medium with the purpose of promoting or opposing any registered political party or its leader or the election of a registered candidate. Political advertising includes advertisements in newspapers, journals, and magazines; promotion on TV and radio; and advertisements placed on lawn signs, billboards, bus shelters, and the Internet (including websites, blogs, and social networking sites), etc.

The definition of “political advertising” encompasses election-related advertising or communications that are expressly or impliedly directed to political parties or their leaders, candidates or platforms. It includes election-related advertising that takes a position on an issue of public policy that is closely associated with a registered party or its leader or a registered candidate in relation to an upcoming election (sometimes called “issue advertising”).

The Act restricts advertising that is expressly or impliedly related to an election, i.e. directed at parties and their leaders, candidates or platforms. On the other hand, the Act does not restrict public campaigns for or against particular legislative or policy initiatives which are not election-oriented, even when that advertising coincides with a regulated period for third party political advertising. In other words, issue advertising on matters of public importance that is not expressly or impliedly related to an election is not “political advertising” under the Act.

What is “closely associated”?

2. Determining whether a given issue is “closely associated” with a party, its leader, or a candidate will depend on which issues are likely to be addressed in the upcoming election campaign, or which are distinctly associated with a particular party, leader, or candidate in the public discourse, such that advertising relating to that issue is in effect an indirect advertisement for or against that party, leader, or candidate. A party’s own advertising, election platform, and talking points will all be relevant considerations in determining whether an issue is “closely associated” to a party, its leader, or a candidate. When election day is further away (for example, at the beginning of the “non-

12. Third Parties

election period”), it will be less clear what issues are likely to be “closely associated” with a party, its leader, or a candidate in relation to the upcoming election. Advertising placed earlier in the non-election period is therefore less likely to constitute “political advertising” than advertising placed later in the non-election period or during the election period.

Whether issue advertising is election-oriented depends on the purpose for which the advertisement was placed. If the purpose of the advertising is to influence the outcome of an election, then the advertising falls within the definition of “political advertising”. If the purpose of the advertising is to promote a pre-existing advocacy campaign, it is less likely that this will be viewed as political advertising. Where an advertisement may have more than one purpose, the Chief Electoral Officer considers whether the main purpose of the advertisement is related to an election.

3. In determining whether advertising (including issue advertising) is “political advertising” the Chief Electoral Officer considers the following criteria:

- a) whether it is reasonable to conclude that the advertising was specifically planned to coincide with the period referred to in Spending Limits section;
- b) whether the formatting or branding of the advertisement is similar to a registered political party’s or registered candidate’s formatting or branding or election material;
- c) whether the advertising makes reference to the election, election day, voting day, or similar terms;
- d) whether the advertisement makes reference to a registered political party or registered candidate either directly or indirectly;
- e) whether there is a material increase in the normal volume of advertising conducted by the person, organization, or entity;
- f) whether the advertising has historically occurred during the relevant time of the year;
- g) whether the advertising is consistent with previous advertising conducted by the person, organization, or entity;
- h) whether the advertising is within the normal parameters of promotion of a specific program or activity; and

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- i) whether the content of the advertisement is similar to the political advertising of a party, constituency association, nomination contestant, candidate or leadership contestant registered under the Act.

The Chief Electoral Officer also considers any other relevant factors that may indicate that a particular advertisement is or is not related to an upcoming election.

While the Chief Electoral Officer will consider all of the circumstances relevant to any given advertisement, the Chief Electoral Officer considers it highly significant if the advertising includes any reference to the election, election day, voting day, or similar terms; or to a registered political party, its leader, or registered candidate (either directly or indirectly). Advertising that includes such references will generally constitute political advertising.

What is not political advertising?

4. Political Advertising does not include:

- a) the transmission to the public of an editorial, a debate, a speech, an interview, a column, a letter, a commentary or news;
- b) the distribution of a book, or the promotion of the sale of a book, for no less than its commercial value, if the book was planned to be made available to the public regardless of whether there was to be an election;
- c) communication in any form directly by a person, group, corporation or trade union to their members, employees or shareholders, as the case may be;
- d) the transmission by an individual, on a non-commercial basis on the Internet, of his or her personal political views; or
- e) the making of telephone calls to electors only to encourage them to vote.

5. (1) “Third party political advertising” means political advertising placed by or on behalf of a third party, and “third party political advertisement” has a corresponding meaning.

(2) “Third party political advertising expense” means an expense incurred in relation to:

- a) the production of a third party political advertisement, or

12. Third Parties

- b) the acquisition of the means of transmission of a third party political advertisement to the public.

6. “Third party” means any person or entity who is not a registered candidate, political party, or constituency association. This does not include the Government of Canada, the Government of Ontario, the government of another province or territory of Canada, or the government of a municipality, or by any part of such a government.

7. “Non-election period” only applies to fixed date general elections, and for third parties, represents the twelve-month period preceding the date the writs are issued.

8. “Election period” means:

- a) in a fixed date general election, the period commencing at 12:01 A.M. on the day the writ for an election is issued and terminating on polling day; and
- b) in a by-election or general election with a non-fixed election date, the period commencing with the issuance of the writ for an election and terminating on polling day.

Authorization

9. All third party political advertising must name the registered third party who is sponsoring or paying for it.

Restrictions on third party political advertising during blackout period

10. (1) No registered third party must conduct paid commercial third party political advertising during a blackout period.

(2) A blackout period includes the day before polling day and polling day for all elections.

(3) The following are exceptions of third party political advertising allowed during a blackout period:

- a) genuine news reporting, including interviews, commentaries, or other works prepared for and published by any newspaper, magazine, or other periodical publication in any medium without any charge to the registered third party. A broadcaster may similarly broadcast genuine news stories; however, these are subject to the provisions of and regulations and guidelines under the *Broadcasting Act (Canada)*;

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- b) the publication of third party political advertising, on polling day or the day before polling day, in a newspaper that is published once a week or less often and whose regular day of publication falls on that day;
- c) a third party political advertisement on the internet or in a similar electronic medium, if posted before and not altered or further distributed during a blackout period; and
- d) a third party political advertisement in the form of a poster or billboard, if posted before and not altered during a blackout period, such as advertisements on public transit buses, bus shelters, and subway stations.

Restriction on election surveys

11. No third party must publish, broadcast or transmit to the public, in an electoral district on polling day before the close of all the polling stations in that electoral district, the results of an election survey that have not previously been made available to the public.

Mandatory registration

12. Every third party spending \$500 or more on third party political advertising in either the twelve months before a fixed date general election (the non-election period) or during an election period; must apply to register with the Chief Electoral Officer.

13. Every third party applying to register with the Chief Electoral Officer must complete and submit the prescribed Third Party Registration and Change Notice Form.

Approval of name

14. The Chief Electoral Officer must determine whether or not the name and abbreviation are acceptable for registration based on the following:

- a) The proposed name and abbreviation must not be similar to another third party or political entity in Canada; and
- b) The proposed name and abbreviation must not be abusive or offensive.

Contents of application

15. The application must submit the name, address and other identifying information of the applicant, its officers, and its chief financial officer. Where an entity has a governing body, a copy of a resolution from that body authorizing the third party advertiser to incur third party political advertising expenses must be included with the application.

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Appointment of auditors

16. A third party must appoint an auditor if it intends to spend, or if it has spent, \$5,000 or more on third party political advertising. An auditor is a person or firm whose partners living in Ontario are license under the *Public Accounting Act, 2004* and cannot be the applicant or a returning officer, deputy returning officer, election clerk, candidate, the chief financial officer or the auditor of a third party or of a registered political party, constituency association, candidate or leadership contestant.

Application filing methods

17. The Chief Electoral Officer must accept the completed Third Party Registration and Change Notice Form by any delivery method so long as the application is complete and the dates of delivery and receipt are known.

Approval of application

18. The Chief Electoral Officer, prior to approving an application, may request such further information and undertakings from the applicant as determined necessary to verify compliance with the third party registration provisions of the *Election Finances Act*.

Effective date of registration

19. The Chief Electoral Officer must register a third party upon approval of the completed Third Party Registration and Change Notice Form.

20. (1) A third party that files an application for registration in the twelve months before a fixed date general election (non-election period) is considered registered the day the application is received, providing the application is complete and approved by the Chief Electoral Officer.

(2) A third party that files an application for registration after the day a writ is issued is considered registered the day the application is received, providing the application is complete and approved by the Chief Electoral Officer.

(3) A third party that files an application for registration by registered mail after the day a writ is issued is considered to have been registered the day it is mailed, providing the application is complete and approved by the Chief Electoral Officer.

Notification to the Chief Electoral Officer when chief financial officers or auditors change

21. Among other requirements when registration information changes, if the chief financial officer or auditor ceases to hold office for a registered third party, another chief financial officer or auditor must immediately be

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appointed and an amended Third Party Registration and Change Notice Form containing the name and contact information of the new chief financial officer or auditor must be filed immediately.

Eligible contributors

22. (1) Contributions for the purposes of funding third party election advertising may be made to a registered third party by:

- a) a person who is normally resident in Ontario;
- b) a corporation carrying on business in Ontario that is not a registered charity; or
- c) a trade union as defined by the *Labour Relations Act, 1995* or the Canada Labour Code, that holds bargaining rights for employees in Ontario.

(2) No third party must accept an anonymous contribution.

(3) Any contribution from one third party to another third party for the purposes of political advertising must be deemed as part of the expenses of the contributing third party.

Source of contributor's funds

23. No registered third party or person acting on its behalf must solicit or knowingly accept any contribution that is not made in the contributor's own funds.

Use of own funds

24. When a registered third party's own funds are used for that third party's election advertising expenses those funds must be recorded and reported in the election advertising report.

No contribution limits

25. There is no limit to the amount that may be contributed to a registered third party.

Monetary contributions

26. A monetary contribution to a registered third party that exceeds \$25 must be made by any modern financial practice where the contributor and the account information can be confirmed.

Crowdfunding, or crowdsourcing, through the internet for contributions is also permitted, provided that the proceeds are accompanied by information that allows the CFO to trace and track contributions from individual donors. If

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for any reason a CFO cannot facilitate the collection of this information for crowdfunded proceeds, then it should not accept contributions through these means. Contributions must be from eligible contributors, using their own funds, and within the contribution limits.

Where there is a processing fee, the full amount sent by a contributor is the contribution amount and the processing fee is an expense.

Goods and services contributions

27. (1) Goods or services accepted by a registered third party may be considered a contribution if the goods and services are valued in excess of \$100 they are considered a contribution and must be recorded.

(2) Goods and services provided to a registered third party are not contributions if:

- a) the goods are produced by voluntary labour which are not paid for by the registered third party; or
- b) the aggregate value of all goods and services provided by the donor in a calendar year is \$100 or less, and the donor indicates that the value is not to be considered a contribution.

(3) The value of goods and services supplied is deemed to be fair market value for similar goods or services at the time of their provision.

Goods and services provided for a price less than fair market value

28. Where goods and services are provided to a registered third party for a price that is less than the fair market value, the amount that the price is less than such fair market value must be considered a contribution.

Supporting documentation for goods and services

29. (1) The contribution of goods and services must be supported by an invoice from the supplier of the goods and services.

(2) Where a person or entity provides services and part or all of the agreed upon fee is considered by the person or entity to be a contribution, the contributor must submit a statement of account and indicate the amount of the contribution for the services performed.

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Accepting of contributions

30. (1) All money accepted by or on behalf of a registered third party must only be deposited into a bank account on record with the Chief Electoral Officer.

(2) Only the chief financial officer or other authorized persons on record with the Chief Electoral Officer may accept contributions.

Recording and reporting of contributions

31. The chief financial officer must record and report the details of all contributors and contributions accepted on behalf of a registered third party for its third party election advertising for the period beginning six months prior to the relevant period and ending three months after polling day.

- a) For a non-fixed date general election or a by-election, contributions accepted in the period starting six months before the date the writ is issued and ending three months beyond polling day are required to be reported.
- b) For a fixed-date general election, contributions accepted in the period starting eighteen months before the date the writ is issued and ending three months beyond polling day are required to be reported.

No tax receipts for contributions

32. Contributions to a registered third party to support election advertising are not eligible for a tax receipt. However, a complete listing of all such contributions is still required to be filed with the Chief Electoral Officer. As a result, all contributions, including the name and address of contributors, regardless of amount must be recorded by the chief financial officer.

Prohibited transfers

33. A third party must not accept funds, goods or services for third party election advertising from a candidate, nomination or leadership contestant, constituency association, or political party.

Third party political advertising expenses

34. (1) A third party political advertising expense is any expense incurred for goods or services in relation to such advertising that appears during the non-election period (if applicable) and election period.

(2) A third party political advertising expense includes the value of any goods held in inventory or prepaid expenses for advertising that appears during the non-election period (if applicable) and election period.

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Spending limit

The following text explains the spending limits that may apply to a registered third party.

Non-election Period Spending Limit

35. No third party must spend:

- a) more than \$24,000 in any electoral district for the purpose of third party political advertising in that district during the twelve-month period immediately before the issue of a writ of election for a general election held in accordance with subsection 9(2) of the *Election Act*, multiplied by the indexation factor determined under section 40.1 of the *Election Finances Act* for the calendar year in which the election period begins and rounded to the nearest dollar; or
- b) more than \$600,000 in total for the purposes of third party political advertising during the twelve-month period immediately before the issue of a writ of election for a general election held in accordance with subsection 9(2) of the *Election Act*, multiplied by the indexation factor determined under section 40.1 of the *Election Finances Act* for the calendar year in which the election period begins and rounded to the nearest dollar.

Election Period Spending Limit

36. No third party must spend:

- a) more than \$4,000 in any electoral district for the purpose of third party political advertising in that district during any election period, whether for a by-election or a general election, multiplied by the indexation factor determined under section 40.1 of the *Election Finances Act* for the calendar year in which the election period begins and rounded to the nearest dollar; or
- b) more than \$100,000 in total for the purpose of third party political advertising during any election period for a general election, multiplied by the indexation factor determined under section 40.1 of the *Election Finances Act* for the calendar year in which the election period begins and rounded to the nearest dollar.

No Collusion or Combination to Exceed Limit

37. No third party must circumvent, or attempt to circumvent, the spending limits in any manner, including by:

12. Third Parties

- a) acting in collusion with another third party so that their combined political advertising expenses exceed the applicable limit;
- b) splitting itself into two or more third parties;
- c) colluding with, including sharing information with, a registered party, registered constituency association, registered candidate, registered leadership contestant, or registered nomination contestant or any of their agents or employees for the purpose of circumventing the limit;
- d) sharing a common vendor with one or more third parties that share a common advocacy, cause or goal;
- e) sharing a common set of political contributors or donors with one or more third parties that share a common advocacy, cause or goal;
- f) sharing information with one or more third parties that share a common advocacy, cause or goal; or
- g) using funds obtained from a foreign source prior to the issue of a writ for an election.

To be clear, the various forms of conduct listed above are not prohibited in all instances. It is only where a third party acts for the purpose of circumventing (or attempting to circumvent) the spending limits.

Reporting requirements

The following text explains the requirement for and the filing of interim and final advertising reports for a registered third party.

Reporting on Third Party Political Advertising Interim Report

38. The chief financial officer of a third party must promptly file an interim political advertising report:

- a) after spending or committing to spend any funds on political advertising;
- b) each time its aggregate spending increases by an amount of at least \$1,000; and
- c) when it has reached the applicable spending limit(s).

Election Ontario must publish this information on our website within two business days of receiving the reports. Based on the interim reports, Elections Ontario must also publish the percentage of the maximum spending limit each third party has spent.

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Reporting on Third Party Political Advertising Final Report

39. The chief financial officer of a registered third party must file a final political advertising report and supporting documentation with the Chief Electoral Officer within six months after polling day for the income and expenses relating to the third party's political advertising.

40. The reporting period is:

- a) in a fixed date general election, the period commencing 18 months before the day the writ for an election is issued and terminating three months after polling day; and
- b) in a by-election or general election with a non-fixed election date, the period commencing with the issuance of the writ for an election and terminating three months after polling day.

41. The chief financial officer of a registered third party who spends over \$5,000 on third party election advertising must file an audited advertising report.

42. Every registered third party, in its Third Party Political Advertising Final Report must certify that the registered third party and its agents, employees, and independent contractors did not act in coordination with any registered political party, registered candidate, registered constituency association, registered nomination contestant, or registered leadership contestant, or any of their agents, employees or independent contractors.

13. Complaints, Investigation, and Enforcement

13. Complaints, Investigation, and Enforcement

This guideline explains the treatment of external complaints and investigations by Elections Ontario; and the reporting and consent of a prosecution of an apparent contravention under the *Election Finances Act*.

Form of complaints

1. (1) A complaint to the Chief Electoral Officer relating to matters governed by the *Election Finances Act* must be made in writing, be signed by an individual, and include contact information for that individual.

(2) An individual who makes a complaint in accordance with (1) must be considered the complainant.

Receipt of complaints

2. (1) When the Chief Electoral Officer receives a complaint that relates to a matter governed by the *Election Finances Act*, the Chief Electoral Officer may decide whether or not to investigate the complaint.

(2) When the Chief Electoral Officer decides to investigate a complaint, an acknowledgement of the receipt of the complaint will be sent to the complainant. and a copy of the complaint referred to in 1(1) above may be sent to the person or entity against whom the complaint is made.

(3) At the sole discretion of the Chief Electoral Officer, the complainant and the person or entity against whom the complaint is made may be apprised of the status of the investigation of the complaint and its resolution to the extent that the Chief Electoral Officer deems appropriate.

Refusal and referral of complaints

3. When the Chief Electoral Officer decides not to investigate a complaint, the complainant:

a) must be advised of this; and,

b) may be referred to another regulatory or legal authority, if the complaint does not relate to a matter governed by the *Election Finances Act*.

Confidentiality of complaints

4. Where a complaint has been received, the Chief Electoral Officer may not publicly acknowledge the fact of a complaint to anyone other than the complainant or the person or entity named in the complaint until:

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- a) the investigation into the complaint has been concluded and the determination made that there is no apparent contravention to report to the Attorney General; or
- b) the subject matter of the complaint has been reported to the Attorney General as an apparent contravention.

Confidentiality of investigations

5. Where a complaint has been investigated or the Chief Electoral Officer has at his or her own discretion conducted an investigation as to whether or not a person or entity has failed to comply with the *Election Finances Act*, the Chief Electoral Officer may not publicly acknowledge the fact of an investigation until:

- a) the investigation has been concluded and the determination made that there is no apparent contravention to report to the Attorney General; or
- b) the subject matter has been reported to the Attorney General as an apparent contravention.

Reporting on investigations

6. Once an investigation has concluded with or without referral to the Attorney General, the Chief Electoral Officer may decide to report in his or her next annual or other report tabled with the Legislative Assembly about:

- a) the fact of the investigation and the resources employed to conduct the investigation,
- b) the subject matter of the investigation and what section of the *Election Finances Act* the investigation concerned,
- c) what person or entity regulated by the *Election Finances Act* the investigation concerned.

Reporting on filing deadlines

7. Where a person or entity regulated by the *Election Finances Act* has failed to comply with the filing deadlines of the *Election Finances Act*, the particulars may be made public by the Chief Electoral Officer in his or her next annual or other report tabled with the Legislative Assembly.

Reporting Section 43 contraventions to the Speaker

8. In accordance with section 43 of the *Election Finances Act*.

- 1) Where the Chief Electoral Officer finds the campaign expenses incurred by a registered candidate who is elected exceeds the spending limit

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prescribed by subsections 38(2) and (3) of the *Election Finances Act*, the Chief Electoral Officer must notify the candidate and the Speaker of the Legislative Assembly.

- 2) Where the chief financial officer of a registered candidate or registered leadership contestant who is elected or sitting as a member of the Assembly fails to file the candidate's financial statements by the deadline for a campaign period, the Chief Electoral Officer must:
 - a) promptly notify the candidate; and,
 - b) notify the Speaker of the Legislative Assembly if the financial statements are not filed within thirty days.

Reporting apparent contraventions to the Attorney

General

9. (1) Where the Chief Electoral Officer is of the opinion that there is an apparent contravention of the *Election Finances Act*, the Chief Electoral Officer must report that fact to the Attorney General and may, at the sole discretion of the Chief Electoral Officer, notify the person or entity of that referral.

(2) Where a person representing a registered political party, constituency association, candidate, leadership contestant or nomination contestant fails to substantively respond to a request for information made under sections 3 or 7 of the *Election Finances Act*, the Chief Electoral Officer may report this to the Attorney General as an apparent contravention of the *Election Finances Act*.

Consent required for prosecution

10. (1) Where the Chief Electoral Officer is asked to consent to a prosecution of a contravention of the *Election Finances Act*, the request must:

- a) be made in writing,
- b) be signed by an individual,
- c) include contact information for that individual,
- d) provide a written explanation as to why the individual believes the *Election Finances Act* has been contravened, and
- e) provide a copy of the sworn information under the *Provincial Offences Act* that the individual certifies will be put before the justice of the peace hearing the prosecution.

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(2) Following the review of a written request to consent to prosecution, the Chief Electoral Officer must:

- a) provide a consent in writing,
- b) advise in writing that consent is not granted, or
- c) request further explanation and evidence in respect of the alleged contravention of the *Election Finances Act*.

Public acknowledgement of consents

11. (1) When a request to consent to the initiation of a prosecution has been received, the Chief Electoral Officer may publicly acknowledge whether or not consent to initiate the prosecution has been granted.

(2) The Chief Electoral Officer may also decide to report on requests for consent to prosecution in his or her next annual or other report tabled with the Legislative Assembly.

14. Administrative Monetary Penalties

14. Administrative Monetary Penalties

This guideline explains monetary penalties administered by the Chief Electoral Officer for certain contraventions of the *Election Finances Act*.

Purpose

1. In order to promote compliance, with the *Election Finances Act*, the Chief Electoral Officer may order the payment of administrative penalties for certain contraventions of the Act.
2. The application of administrative penalties and the amount of the penalty, subject to the legislated maximum, is entirely at the discretion of the Chief Electoral Officer. The Act sets out criteria that the Chief Electoral Officer must consider when deciding on an administrative penalty.

Administrative monetary penalties under s.45.1(1) of the *Election Finances Act*

3. Where the Chief Electoral Officer believes on reasonable grounds that a person or entity has contravened one of the following provisions of this Act, the Chief Electoral Officer may make an order requiring the person or entity to pay an administrative penalty.

Acceptance of contributions by or for unregistered Nomination Contestant s.12.1(1)

4. No person and no person, organization or entity acting on behalf of that person and no political party or any of its associations or organizations acting on behalf of that person must accept contributions for the candidacy of that person in a contest related to seeking endorsement as an official party candidate unless that person is a nomination contestant registered under this Act.

Acceptance of contributions by or for unregistered Leadership Contestant s.14(1)

5. No person and no person, organization or entity acting on behalf of that person and no political party or association or organization thereof acting on behalf of that person must accept contributions for the candidacy of that person for the leadership of a registered party or for a leadership campaign of that person unless that person is a leadership contestant registered under this Act.

14. Administrative Monetary Penalties

Exceeding contribution limit s.18

6. The contributions that a person makes to any one registered party must not exceed, in a calendar year, \$3,300 plus \$25 for each calendar year that has begun on or after January 1, 2022.

7. The contributions that a person makes to registered constituency associations and registered nomination contestants of any one registered party or to the constituency association of any independent member must not exceed, in a calendar year, \$3,300 plus \$25 for each calendar year that has begun on or after January 1, 2022.

8. The contributions that a person makes to registered candidates of any one registered party must not exceed, in a campaign period, \$3,300 plus \$25 for each calendar year that has begun on or after January 1, 2022.

9. The contributions that a person makes to all registered candidates not endorsed by a registered party must not exceed, in a campaign period, \$3,300 plus \$25 for each calendar year that has begun on or after January 1, 2022.

10. The contributions that a person makes to any one registered leadership contestant of a registered party must not exceed, in a calendar year that falls during a leadership contest period or during which the contestant is required to be registered by virtue of subsection 14 (2.1), \$3,300 plus \$25 for each calendar year that has begun on or after January 1, 2022.

Information to be included in political advertisement s.22(9)

11. A political advertisement in any medium must name,

- a) the person, registered party, registered constituency association or other organization or entity who is causing it to appear; and
- b) any other person, registered party, registered constituency association or other organization or entity who is sponsoring or paying for it.

Who may accept contributions for candidate or leadership contestant s.32

12. No contribution must be accepted by a registered nomination contestant, registered candidate or registered leadership contestant otherwise than through his or her chief financial officer or other person on record with the Chief Electoral Officer as authorized to accept contributions.

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Release of election surveys on polling day s.36.1

13. No person, organization or entity, including, for greater certainty, a political party, constituency association, corporation, trade union or third party must publish, broadcast or transmit to the public, in an electoral district on polling day before the close of all the polling stations in that electoral district, the results of an election survey that have not previously been made available to the public.

No political advertising during blackout period s.37(2) and s.37(3)

14. “Blackout period” means, in any election, polling day and the day before polling day.

15. s.37(2) No party, constituency association, third party or candidate registered under this Act, and no person, corporation or trade union, whether acting with or without the party’s, association’s, third party’s or candidate’s consent, must arrange for or consent to political advertising that appears during a blackout period.

16. s.37(3) No broadcaster or publisher must allow a political advertisement to appear during a blackout period.

Third Parties s.37.5(1) and s.37.5(5)

17. s.37.5(1) A third party must apply for registration under this section immediately after having incurred expenses of a total amount of \$500 for third party political advertising during a period referred to in section 37.10.1 [the non-election and election periods].

18. s.37.5(5) If the third party is an entity with a governing body, the application must include a copy of the resolution passed by the governing body authorizing the entity to incur third party political advertising expenses.

Third party spending limits s.37.10.1(1) and s.37.10.1(2)

19. s.37.10.1(1) Election period: No third party must spend,

- a) more than \$4,000 in any electoral district for the purpose of third party political advertising in that district during any election period, whether for a by-election or a general election, multiplied by the indexation factor determined under section 40.1 for the calendar year in which the election period begins and rounded to the nearest dollar; or
- b) more than \$100,000 in total for the purpose of third party political advertising during any election period for a general election, multiplied by the indexation factor determined under section 40.1 for

14. Administrative Monetary Penalties

the calendar year in which the election period begins and rounded to the nearest dollar.

20. s.37.10.1(2) Non-election period: No third party must spend,

- a) more than \$24,000 in in any electoral district for the purpose of third party political advertising in that district during the twelve-month period immediately before the issue of a writ of election for a general election held in accordance with subsection 9(2) of the *Election Act*, multiplied by the indexation factor determined under section 40.1 for the calendar year in which the election period begins and rounded to the nearest dollar; or
- b) more than \$600,000 in total for the purposes of third party political advertising during the twelve-month period immediately before the issue of a writ of election for a general election held in accordance with subsection 9(2) of the *Election Act*, multiplied by the indexation factor determined under section 40.1 for the calendar year in which the election period begins and rounded to the nearest dollar.

Third party reporting s.37.12(1) and s.37.12(8)

21. Every third party must promptly file the following interim reports with the Chief Electoral Officer, in the prescribed form:

- a) When it has paid or committed to any person or entity to spend any funds on paid political advertising, it must report the amount spent or committed, with a separate report being required each time its aggregate spending increases by an amount of at least \$1,000.
- b) When it has reached the applicable spending limit under section 37.10.1, it must report that fact.

22. The chief financial officer of every third party that is required to be registered in accordance with subsection 37.5 (1) must file a third party political advertising report in the prescribed form with the Chief Electoral Officer within six months after polling day for an election in respect of which it was registered.

23. Every registered third party in its third party political advertising report must certify that the registered third party and its agents, employees, and independent contractors did not act in coordination with any registered political party, registered candidate, registered constituency association, registered nomination contestant, or registered leadership contestant, or any of their agents, employees or independent contractors.

14. Administrative Monetary Penalties

Limitation of campaign expenses s.38(1), s.38(2), s.38(3) and s.38(3.1)

24. s.38(1) Limitation - political party: The total campaign expenses incurred by a registered party and any person, corporation, trade union, unincorporated association or organization acting on behalf of the party during a campaign period must not exceed the amount determined by multiplying the applicable amount by,

- a) in relation to a general election, the number of electors in the electoral districts in which there is an official candidate of that party; and
- b) in relation to a by-election in an electoral district, the number of electors in that electoral district.

25. For the purposes of subsection (1), the applicable amount is 80 cents, multiplied by the indexation factor determined for the calendar year under section 40.1 and rounded to the nearest cent.

26. The total campaign expenses incurred by a registered candidate, the constituency association endorsing that candidate and any person, corporation, trade union, unincorporated association or organization acting on behalf of the candidate or constituency association during a campaign period must not exceed the amount determined by multiplying the applicable amount by the number of electors in the candidate's electoral district.

27. For the purposes of subsection (3), the applicable amount is \$1.28, multiplied by the indexation factor determined for the calendar year under section 40.1 and rounded to the nearest cent.

Non-campaign expenses - registered party s.38.1

28. The total political advertising expenses incurred by a registered party during the six-month period immediately before the issue of a writ of election for a general election held in accordance with subsection 9(2) of the *Election Act*, must not exceed \$1,000,000, multiplied by the indexation factor determined under section 40.1 for the calendar year and rounded to the nearest dollar.

Reporting, appointed candidates s.41.1

29. Promptly after a candidate is appointed with respect to a registered party for an electoral district, the registered party must notify the Chief Electoral Officer of the name of the candidate who was selected.

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Constituency associations and parties s.41.2

30. Every registered constituency association of a registered party must disclose its financial statements to the chief financial officer of the registered party on a quarterly basis, or upon request.

Limitation, payment, and maximum amount of administrative monetary penalties

The following text explains the limitations, payment of, and maximum amounts of administrative monetary penalties.

Limitation

31. The Chief Electoral Officer must not make an order requiring the payment of an administrative penalty more than two years after the date on which the Chief Electoral Officer became aware of the contravention.

Payment

32. An administrative penalty must be paid into the Consolidated Revenue Fund, and must be in an amount determined by the Chief Electoral Officer in accordance with this section.

Maximum amounts

33. The maximum amount of an administrative penalty under this section must be determined as follows:

- a) For a contravention of section 18 is an amount equal to twice the amount that was contributed in contravention of that section, plus \$1,500, in the case of an individual, and plus \$5,000, in the case of a corporation or other entity.
- b) For a contravention of subsection 22 (9), 37 (2) or 37.10.2 (1), \$10,000 in the case of an individual, and \$100,000 in the case of a corporation or other entity.
- c) For a contravention of subsection 37.5 (1), 37.5 (5) or 37.12 (8), \$10,000.
- d) In all other cases, \$1,500, in the case of an individual, and \$5,000 in the case of a corporation or other entity.

Criteria for penalty, notice and consultation

The following text explains the criteria for determination, consultation and publishing a notice for administrative monetary penalties.

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Criteria for penalty

34. The amount of an administrative penalty is to be determined taking into account,

- a) the degree of intention or negligence on the part of the person or entity that committed the contravention;
- b) the harm done by the contravention;
- c) whether the person or entity derived any advantage from the contravention;
- d) whether the person or entity made reasonable efforts to mitigate or reverse the contravention's effects;
- e) whether the person or entity has taken steps to avoid committing the contravention in the future;
- f) whether the person or entity has provided all reasonable assistance to the Chief Electoral Officer with respect to the contravention, including reporting it and providing any relevant information;
- g) the person's or entity's history of compliance with the provisions of this Act;
- h) the person's or entity's ability to pay the penalty;
- i) any aggravating and mitigating circumstances; and
- j) any other factor that, in the opinion of the Chief Electoral Officer, is relevant

Notice

35. The Chief Electoral Officer may take into account a factor under clause (6) (j) only if a notice that sets out the factor has been published on the website of the Chief Electoral Officer.

Consultation

36. Before publishing a notice under subsection (7), the Chief Electoral Officer must publish for the purpose of public consultation, a notice that sets out the proposed factor for at least 30 days on the website of the Chief Electoral Officer.

14. Administrative Monetary Penalties

Procedure, appeal, and failure to pay

The following text explains the procedure of issuing and appealing an order, and the failure to pay.

Procedure

37. An order requiring a person or entity to pay an administrative penalty must be served on the person or entity and must,

- a) contain a description of the contravention to which the order relates, including the date of the contravention;
- b) specify the amount of the penalty, and warn about the increasing amounts for subsequent contraventions;
- c) give particulars respecting the time for paying the penalty and the manner of payment; and
- d) provide details of the person or entity's right of appeal.

Appeal

38. A person or entity who is served with an order to pay an administrative penalty may appeal the Chief Electoral Officer's decision by filing an application with the Superior Court of Justice within 30 days from the date the order was served, and the following applies to such an appeal:

- a) The application must be accompanied with a copy of the order and state the reasons for the appeal.
- b) A copy of the application must be served on the Chief Electoral Officer not less than 30 days before the appeal is to be heard.
- c) The Superior Court of Justice may, on application, extend the 30-day period for making an appeal, if it considers it appropriate to do so.
- d) On hearing the appeal, the Superior Court of Justice may confirm, rescind or vary the amount of the administrative penalty.

Failure to pay

39. If a person or entity who is required to pay an administrative penalty fails to comply with the requirement, the Chief Electoral Officer may file the order that requires payment with a local registrar of the Superior Court of Justice and the order may be enforced as if it were an order of the court.