



**Campaign Finance
Information Session
2018 Municipal Election**

Disclaimer

- These slides are provided by the Ministry of Municipal Affairs and Housing for convenience only.
- The slides should not be considered legal or accounting advice. These slides are not meant to replace provincial legislation. For more specific information, please refer to the relevant legislation and regulations which can be found online at Ontario.ca/Laws
- As local facts and circumstances are variable, users should obtain their own legal and professional advice when specific issues arise.

Overview

- Campaign finances
 - Contributions and limits
 - Self-funding limits
 - Borrowing
 - Campaign expenses
 - Spending limits
 - Financial statements
- Compliance audit
- Offences and penalties
- Key dates and resources

Contributions

- Candidates and third party advertisers do not have to open a bank account if they do not raise or spend money.
- A contribution includes money, goods or services.
- Contributions to candidates from trade unions and corporations are prohibited in municipal elections.
- Corporations and trade unions can contribute to third party advertisers.
- Municipalities and local boards are required to set policies about the use of municipal or board resources during the campaign period.
- Municipalities or local boards providing information to the public on a website or other electronic means is not a contribution.

Contributions (cont'd)

- **Candidates** can accept contributions from:
 - individuals who are normally resident in Ontario
 - the candidate and their spouse
- **Third party advertisers** can accept contributions from:
 - individuals who are normally resident in Ontario
 - trade unions that holds bargaining rights for employees in Ontario
 - corporations that carry on business in Ontario
- The rules for determining if corporations are deemed to be a single corporation have been simplified.
 - Corporations are deemed to be a single corporation if one of the corporations controls the others, directly or indirectly, or if all of the corporations are owned or controlled by the same person or group of persons either directly or indirectly

Contributions (cont'd)

Neither **candidates** nor **third party advertisers** can accept contributions from:

- federal political party, constituency association or a registered candidate in a federal election
- provincial political party, constituency association or a registered candidate or leadership contestant
- a federal or provincial government
- a municipality
- a school board
- a business or group that is not a corporation

Contributions (cont'd)

- Contributions over \$25 may be by cheque or money order or by a method that clearly shows where the funds originated.
- If goods sold to raise funds are sold for \$25 or less, that amount is considered campaign income, not a contribution.
- Donations under \$25 at fundraising events are not contributions.
- Ticket price of fundraiser is a contribution.
- Receipts must be issued for each contribution and should include the name, address, amount and date of the contribution
- No anonymous contributions except for pass the hat collections (limited to \$25).

Contribution limit

- The limit on contributions to any one candidate or registered third party advertiser is \$1,200.
- Contributors are limited to an aggregate total of \$5,000 to any number of candidates running for the same council or school board.
- Contributors are limited to an aggregate total of \$5,000 to any number of third party advertisers registered in the same municipality.
- Limit applies whether it is one large contribution or the total of a number of smaller contributions or combination of money, goods and services.
- Candidates and third party advertisers are required to inform contributors of contribution limits.

Self-funding limit

- There is now a limit on the amount that a candidate for a municipal council can make to their own campaign. This limit also applies to contributions made by the candidate's spouse.
- This limit is based on the number of electors voting for the office, to a maximum of \$25,000 per candidate:
 - \$7,500 + \$0.20 per elector for head of council
 - \$5,000 + \$0.20 per elector for other council offices
- These contributions must be deposited into the campaign account, a receipt provided and contributions reported on the financial statement.

Borrowing

- Loan - only from bank or other recognized lending institution in Ontario and paid directly to campaign account.
- Loans may only be guaranteed by the candidate or their spouse.
- Generally, the same borrowing rules apply to third party advertisers.

Campaign expenses

For the purposes of the *Municipal Elections Act, 1996*, the following are considered campaign expenses:

- Candidates – costs incurred for goods or services by or under the direction of a candidate wholly or partly for use in their election campaign are expenses.
- Third party advertisers – costs incurred by or under the direction of an individual, corporation or trade union for goods or services for use wholly or partly in relation to third party advertisements that appear during an election in a municipality are expenses.

Campaign expenses (cont'd)

A campaign expense includes:

- any expense incurred for goods and services in relation to an election
- the replacement value of any goods held in inventory from a previous election
- the equivalent value of any contribution of goods and services for use in whole or in part

Campaign expenses (cont'd)

Changes to the *Municipal Elections Act, 1996* since the last regular election:

- The nomination fee is not a campaign expense.
- After the 2018 election, campaign deficits cannot be carried forward from the previous campaign.
- Expenses related to preparation of the auditor's report, where one is required, that accompanies the financial statement can be incurred after **December 31**.

Spending limit

- Ontario Regulation 101/97
- Head of council: \$7,500 + \$0.85 per elector
- All other offices: \$5,000 + \$0.85 per elector
- Maximum amount for parties etc. after voting day – 10% of the above calculated amounts.
- The clerk's calculation of the spending limit is final.

Spending limit (cont'd)

- The clerk will provide both candidates and third party advertisers with two certificates:
 - preliminary estimate – when filing a nomination form or when registering as a third party advertiser, based on the 2014 voter's list
 - amount based on the 2018 voter's lists which will be provided by **September 25**
- The higher of the two amounts is the spending limit.
- A 10% spending limit is in effect for parties and expressions of appreciation after the close of voting.

Expenses not subject to the spending limit

Expenses that are not subject to the general campaign spending limit include:

- holding a fundraising event or activity
- expenses related to a recount
- expenses incurred by a candidate with a disability that are directly related to the disability
- audit and accounting fees
- expenses related to a compliance audit
- expenses related to a court action for a controverted election
- expenses incurred after voting day

Note: expenses related to a recount and controverted elections do not apply to third party advertisers.

Third party advertiser spending limit

- Third party advertisers will be subject to two spending limits:
 - a general spending limit
 - a separate limit for expenses related to parties and expressions of appreciation after the close of voting.
- O. Reg. 101/97 includes the following formula for calculating third party spending limits: \$5,000 plus \$0.05 per elector, to a maximum of \$25,000.
- The formula used is based on the number of electors entitled to vote in an election in the municipality.
- The *Municipal Elections Act, 1996* also provides that the spending limit for parties and other expressions of appreciation after voting day be set at 10% of the general spending limit. This would be consistent with the spending limit in place for candidates.

Campaign finance rules

- Campaign finance rules for candidates (sections 88.8-88.11 and 88.15-88.20 of the *Municipal Elections Act, 1996*).
- Campaign finance rules for third party advertisers (sections 88.12-88.14 and 88.21).
- A campaign bank account must be opened for election campaign purposes prior to spending money or accepting contributions.
- All contributions of money must be deposited in the campaign account.

Campaign finance rules (cont'd)

- Accurate record keeping is a legislated requirement.
- Candidates and third party advertisers must keep records of:
 - receipts issued for every contribution
 - value of every contribution
 - whether contribution is in form of money, goods or services
 - contributor's name and address
 - every expense including the receipts obtained for each expense.
- All campaign financial records must be retained until after **November 15, 2022** once the new council/ local board has been sworn in.

Campaign finance rules (cont'd)

As a best practice, candidates and third party advertisers should:

- ensure that receipts are stored in a secure place
- have a multi-part receipt (one for contributor, one for candidate to keep)
- make sure that receipts are sequentially numbered
- consider including contribution limits on the receipt
- have the bank provide monthly statements and cancelled cheques for the account
- produce duplicate deposit slips for every deposit
- maintain a petty cash fund

Financial statement

- Candidates and third party advertisers must file their financial statement on or before **2:00 pm March 29, 2019**.
- If a candidate/ third party advertiser feels that they will not meet the deadline, they may apply to the courts for an extension prior to the **March 29, 2019** deadline.

Financial statement (cont'd)

- All contributions must be reported.
- The names of contributors who contribute more than \$100 must be reported on the financial statement.
- The clerk is required to make financial statements available to the public in an electronic format free of charge.
- Financial statements must include an auditor's report if expenses or contributions exceed \$10,000.

Financial statement (cont'd)

- Candidates can close their campaign and file their financial statement before **December 31, 2018**.
- Clerks are required to make public a report (on a website or in another electronic format) setting out all candidates and third party advertisers and indicating whether each candidate/ third party advertiser complied with the filing requirements by **April 30, 2019** (or within 90 days of a by-election).
- Clerks can determine conditions and limits regarding electronic filing of financial statements.

Financial statement (cont'd)

- The candidate's nomination fee is refundable only if the financial statement is filed on time.
- A candidate or third party advertiser who misses the filing deadline may file within a 30-day grace period, provided a \$500 late filing fee is paid to the municipality.
- A candidate or third party advertiser may resubmit a financial statement to correct an error up until the filing deadline.

Surplus

- Entire amount of a campaign surplus must be paid to the clerk.
- A candidate or third party advertiser is entitled to a refund of any contributions they (or their spouse, if an individual) made to the campaign before the filing of the financial statement and the payment of the surplus to the clerk.
- The clerk holds the surplus monies in trust for the candidate in the event of a compliance audit.
- The clerk holds the surplus monies in trust by the third party advertiser in the event of a compliance audit.
- If there is no compliance audit, the surplus becomes the property of the municipality or school board.

Compliance Audit

- Every council and school board must establish a compliance audit committee.
- A member of a compliance audit committee cannot be a candidate, a member or employee of a council or school board or a registered third party advertiser.
- The clerk reviews contributions to candidates and third party advertisers and prepares a report for consideration by the compliance audit committee.
- If the clerk determines that a contributor has exceeded the contribution limits, the clerk will provide a report to the compliance audit committee, which will determine whether or not to proceed with legal action.

Compliance Audit (cont'd)

- The clerk sends the report regarding contributors to trustee candidates to the secretary of the school board, who will forward the report to the school board's CAC.
- A qualified elector may apply to the compliance audit committee for a review of a candidate's or third party advertiser's campaign finances even if the candidate or third party advertiser hasn't filed a financial statement.
- The committee will consider the application and decide whether to retain an auditor.

Compliance Audit (cont'd)

- Compliance audit committee meetings are required to be open to the public but the committee may deliberate in private.
- Electors will be able to apply for a compliance audit of a third party advertiser's campaign finances.
- The compliance audit committee is required to provide brief written reasons for its decision.
- If the auditor's report concludes that a contravention of the *Municipal Elections Act, 1996* has occurred, the committee will decide whether or not to proceed with a legal proceeding.

Offences

It is an offence to directly or indirectly:

- offer, give, lend or promise to give any valuable consideration connected to the exercise or non-exercise of an elector's vote
- offer a person money or other valuables in order to convince them to run for office or refrain from running for office
- give, procure or promise to procure an office or employment to induce a voter to vote or not vote, or a candidate to run or not run for office.

Penalties

In general, the following penalties are available to the courts upon conviction for an offence under the *Municipal Elections Act, 1996*:

Individual

- maximum fine of \$25,000
- up to six months imprisonment
- ineligibility to run in the next general election or, if convicted of corrupt practices: bribery, to vote in next general election

Candidate

- penalties listed above, plus
- fines for excess campaign expenses
- forfeiture of office if offence committed knowingly

Trade union and corporation

- maximum fine of \$50,000

Key dates

- Voting day
October 22, 2018
- Candidate campaign period: from filing of nomination until
December 31, 2018
- Third party advertiser campaign period: from registration until
December 31, 2018
- Campaign financial statement filing deadline
March 29, 2019 at 2:00 pm

Resources

[Ontario.ca/Laws](https://www.ontario.ca/Laws) (e-laws)

- *Municipal Elections Act, 1996*
- *Municipal Act, 2001*
- *Municipal Conflict of Interest Act*
- *Education Act*

[Ontario.ca/MunicipalElections](https://www.ontario.ca/MunicipalElections) (MMAH website)

- 2018 Candidates' guide
- 2018 Guide for third party advertisers
- 2018 Voters' guide
- [Central forms repository](#) (forms 4 and 8)

www.MunicipalWorld.com (Municipal World)

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Questions

Municipal Services Office – Central Ontario
Ministry of Municipal Affairs and Housing

Call us:

(416) 585-6226

1-800-668-0230

Email us:

MSOC.Admin@Ontario.ca