ELECTION **COMPLIANCE AUDIT** COMMITTEE 2018-2022

CONTACTS

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RECOMMENDED READING

Municipal Elections Act, 1996 (sections 88 through 94)

▶ By-law 2019-1

Candidates' Guide for Ontario Municipal Council and School Board Elections (2018)

www.forms.ssb.gov.on.ca

MUNICIPAL ELECTIONS ACT, 1996 OVERVIEW

Candidates, registered third parties and contributors bound by election campaign finance rules

Candidates and registered third party advertisers must file financial statements outlining campaign finance activities

Each municipality and school board must appoint a compliance audit committee

MUNICIPAL ELECTIONS ACT, 1996 OVERVIEW

- If eligible elector believes on <u>reasonable grounds</u> that candidate has contravened the MEA, may apply for a compliance audit
- Application must be in writing and must set out why elector believes contravention occurred
- Application must be submitted to Clerk by March 29, 2019, which is 90 days after deadline to file campaign financial statement
- Where candidate has extended campaign period, application must be submitted within 90 days after submission of supplementary financial statement

MUNICIPAL ELECTIONS ACT, 1996 OVERVIEW

- Committee considers application and decides whether to grant or reject application
- Committee's decision may be appealed to Superior Court of Justice within 15 days of decision
- If granted, committee appoints auditor to conduct compliance audit
- Committee meets to consider auditor's report
- If report concludes that there is an apparent contravention of MEA, committee decides whether to commence legal action

COMMITTEE MEETINGS

By-law 2019-1 establishes the procedural rules for the Committee

Clerk forwards application to Committee and schedules Committee meeting within 10 days of receipt of application

Committee must consider application within 30 days of receipt from Clerk

Committee meetings are open but Committee members may deliberate in private

Committee must issue decision along with brief written reasons

COMMITTEE MEETINGS

Committee must decide whether to grant or deny application

Where Committee grants application, Committee appoints auditor to conduct compliance audit

Committee must consider auditor's report within 30 days of receipt

Committee shall decide whether to commence a legal proceeding against a candidate for an apparent contravention of the MEA

Committee may appoint a prosecutor to commence legal proceedings where Committee has determined that legal action is appropriate.

COMMITTEE MEETINGS

Chair reads opening statement outlining procedure and format of meeting

All parties introduce themselves and provide mailing and email addresses

Applicant or their agent overviews their application for the Committee

Candidate or their agent make submissions

Chair, Committee and parties may request information from Clerk

Committee may through the Chair ask questions of Applicant and candidate

CANDIDATES

- Candidates must open a bank account before incurring any expenses or accepting any contributions of money (including a contribution from themselves or their spouse)
- Candidate who does not spend any money or accept any contributions does not have to open a campaign bank account.
- Campaign bank account must be used exclusively for campaign purposes
- Campaigns must end on December 31, 2018 unless candidate has a deficit
- Once campaign has ended, candidate should close campaign bank account and prepare campaign financial statement
- Financial statements for campaigns ending on December 31, 2018 must be filed with the Clerk by 2 p.m. on March 29, 2019

CONTRIBUTIONS

- Contributions are any money, goods or services given to the candidate for use in campaign, including:
 - Special discount on good or service
 - ► Free service
 - Goods at a fundraiser
 - Tickets to a fundraiser
 - Inventory from a previous campaign
 - Loan guarantee by candidate or spouse

Volunteers, cash donations of \$25 or less, free political advertising and campaign loans are not contributions

CONTRIBUTIONS

Only candidate and their spouse and other individuals can contribute to campaign

Corporations, trade unions and groups such as clubs, associations and ratepayers' group <u>cannot</u> contribute to campaign

Candidate can only accept contributions after nomination filed

Contributions received outside campaign period <u>must</u> be returned

If contribution cannot be returned then must be turned over to the Clerk

CONTRIBUTION LIMIT

- Limit on the amount that candidate and spouse can collectively contribute to candidate's campaign
- Contribution limit is calculated as follows:
 - ► Head of council = \$7,500 plus \$0.20 per eligible elector
 - Council member = \$5,000 plus \$0.20 per eligible elector
- Cap of \$25,000 regardless of number of electors

All contributions made by candidate and spouse count towards the limit

CONTRIBUTION LIMIT

\$1,200 limit on contributions from other individuals

Candidates must issue a receipt for every contribution received whether cash, goods or services

Candidates required to list names and addresses of every contributor who contributes more than \$100

Candidates must return all contributions made or accepted in contravention of MEA

Contributions that cannot be returned must be given to Clerk

FUNDRAISING

Fundraisers are events or activities held by the candidate or for the candidate for the primary purpose of raising money for the campaign

Fundraisers can only be held during the campaign period

Candidates must record the gross income and the expenses related to each fundraiser



Costs incurred by or on behalf of candidate during campaign

Nomination fee is a personal expense

Expenses must be paid from campaign bank account

Goods and services contributed to campaign are expenses

Candidates are subject to 2 spending limits:

- General limit
- Parties and expressions of appreciation after voting day

SPENDING LIMITS

General limit calculated as follows:

- ▶ Head of council = \$7,500 plus \$0.85 per eligible elector
- Council member = \$5,000 plus \$0.85 per eligible elector
- Expressions of appreciation limit calculated as 10% of candidate's general spending limit
- Most expenses subject to spending limit, except:
 - Related to holding fundraisers
 - Related to recount
 - Related to court action for controverted election
 - Related to compliance audit
 - Incurred by candidate with disability directly related to disability that would not have been incurred but for election
 - Audit and accounting fees

FINANCIAL STATEMENT

- Campaign period ends December 31, 2018
- Statement to be filed by 2 p.m. on March 29, 2019
- Campaigns with deficit can be extended in order to do additional fundraising
- Must notify Clerk on or before December 31, 2018 of desire to extend campaign period
- Campaign may be extended to June 30, 2019
- If campaign extended:
 - Must file financial statement reflecting campaign to December 31, 2018 by March 29, 2019
 - Must file supplementary financial statement that includes information from initial statement and adds information for extended campaign

FINANCIAL STATEMENT

Candidate must have auditor review financial statement and provide report:

- Campaign expenses exceed \$10,000
- Contributions exceed \$10,000
- Both expenses and contributions exceed \$10,000 each

Report must be prepared by an auditor licensed under the Public Accounting Act, 2004

COMPLIANCE

Committee does not have any authority to set penalties

Only court can decide if candidate contravened the MEA and, if so, which penalties apply

Where candidate convicted of offence under MEA, may be subject to:

- Fine of up to \$25,000
- Ineligibility to vote or run in next election
- Up to 6 months in prison
- Forfeiture of elected office, if judge finds that offence committed knowingly

If convicted of exceeding spending limit, candidate may also be fined amount of exceedance