

2020 Electoral Financing

Welcome / Bienvenue



Overview

- I. Candidates
 - *Nomination contestants*
- II. Campaigning and Advertising
- III. Third-Party Election Advertising
- IV. Financial Reporting



I. Candidates



Candidates - Outline

- Eligibility
- Nomination Contestant Process
- Becoming a Candidate for an Election
 - *Nomination papers*



Eligibility

- To be a candidate, a person must be:
 - *18 years of age on or before election day;*
 - *a Canadian citizen;*
 - *a resident of the province for at least 40 days immediately preceding the date of the election; and*
 - *ordinarily resident in an electoral district on the date of the election (but not necessarily the district for which one is a candidate).*



Eligibility

- A mayor or councillor of a municipality may be a candidate, but if elected, must resign the municipal office before becoming a member of the Assembly.
- The following persons may not be a candidate in an election:
 - *Judges;*
 - *Persons who are disqualified from voting under any law relating to the disqualification of electors for corrupt or illegal practices; and*
 - *Election officers.*



Nomination Contestants

- An individual who is **appointed** as a candidate of a political party without holding a nomination contest is not considered to be a nomination contestant and is not required to register.
- An individual who is **elected by acclamation** as a candidate in an electoral district is still considered a nomination contestant and must complete the registration process.
- An individual **seeking** a nomination must complete the registration process.



Registration Process

- Individual decides to seek nomination.
 - *Must appoint an official representative to record all contributions, financing, and expenditures for his or her campaign.*
 - *A nomination contestant may act as his or her own official representative.*
- Individual completes "*Application for Registration as a Nomination Contestant*" and submits it to the political party.



Registration Process

- Party vets and **accepts** individual as a contestant.
 - *An authorized officer of the political party submits the registration form to Elections NB.*
- Following convention, an authorized officer of the political party submits "*Certificate of Nomination Convention*" to Elections NB.



Contestant Financing

- Official rep. required to file one or more financial returns disclosing details of all contributions and other financing received
 - *Contribution and financing limit of \$3,000 per individual supporter, including contestant*
 - *No provincial tax credit*
 - *Financial institutions may finance > \$3,000 if fully secured by guarantees made by individuals*
 - *Nomination contestants who receive \$2,000 or less in financial support have simplified financial reporting*



Contestant Financing

- Financial return is due within **30 days** after the nomination convention.
 - *If the final date for submitting a financial return falls during an election period, the date shall be extended to 90 days after the polling day of the election.*



Becoming a Candidate for an Election

Prior to the issuing of a writ of election, an individual who

- has been selected as the candidate of a political party, or
- has registered as an independent candidate

may begin to present themselves to the public as a candidate for an upcoming election.



Becoming a Candidate for an Election

- The process to file nomination papers with Elections NB as a candidate in an election can only be initiated after the writ of election is issued by the Lieutenant-Governor in Council.



Nomination Papers

- Must be completed and returned to the Returning Officer for the appropriate electoral district any time between the date of the proclamation following the Writ and **2:00 p.m.** on Nomination Day.
 - Obtain from Returning Office
 - www.electionsnb.ca
 - Resources → Forms → P 04 001 Nomination Paper



Nomination Papers

- Part C: Designation of official agent
 - Official agent to authorize all election expenses of the candidate
 - Confirms or changes the electoral district agent previously appointed by the party's chief agent



Nomination Papers

- RO/EC may accept nomination papers
 - A nomination is complete when the Returning Officer issues the P 04 003, Returning Officer's Official Deposit Receipt to the person who paid the deposit of \$100.



II. Campaigning and Advertising



Outline

- Roles and responsibilities
 - At the political party level
 - At the district association and candidate level
- Campaign finances
- Election expenses
 - Spending limits
 - Reimbursements



Outline

- Electoral activities
 - Official start of election period
 - Pre-writ advertising
 - Election-period advertising
 - Campaign offices
 - Wages paid to workers and candidates
 - Nominating conventions
 - Direct costs of fundraisers during election
 - Election Day expenses
 - MLA constituency offices
 - Access to apartment buildings



**Roles and Responsibilities:
Political Party Level**

- Official representative
 - Solicitation of contributions
 - Coordination of fundraising activities
 - Arranging of financing
 - Collaboration on electoral budget
 - Payment of election expenses authorized by chief agent
 - Maintenance of accounting systems
 - Preparation of electoral financial return for chief agent
 - Compliance with PPFA



**Roles and Responsibilities:
Political Party Level**

- Chief agent
 - Collaboration on electoral budget
 - Compliance with election spending limit
 - Authorization and controlling of election-related spending by party
 - Provision of documentation to official rep. for payment of election expenses
 - Reviewing, approving, signing, and submission of electoral financial return to ENB
 - Compliance with PPFA



**Roles and Responsibilities:
Association and Candidate Level**

- Official representative (OR) of registered district association (RDA)
 - Solicitation of contributions
 - Coordination of fundraising activities
 - Consider election expenses reimbursement
 - Arrange financing
 - Collaborate with electoral district agent / official agent (EDA/OA) on electoral budget
 - Transfer money to EDA/OA
 - If authorized by EDA/OA, incur election expenses
 - Identify deemed contribution if election expenses less than regular price



**Roles and Responsibilities:
Association and Candidate Level**

- Official representative (cont'd)
 - Determine current retail value of used advertising materials (signage)
 - Ensure pre-writ advertising respects \$3,000 annual advertising limit
 - Control costs of nomination convention held during election period
 - Receive reimbursement of election expenses and, if necessary, transfer funds to OA
 - Maintain accounting records
 - Submit annual financial return
 - Comply with PPFA



**Roles and Responsibilities:
Association and Candidate Level**

- Electoral district agent/Official agent (EDA/OA)
 - Collaborate on electoral budget
 - Comply with election spending limit
 - Consult with party or RDA on banking options
 1. Centralized financial system – no bank account
 2. Use existing RDA bank account
 3. Open new campaign account
 - Receive funds from official representative



Roles and Responsibilities: Association and Candidate Level

- EDA/OA (cont'd)
 - **Manage election expenses**
 - Authorize election-related spending by campaign
 - Ensure advertising identification disclosures met
 - Reimburse any purchases made using personal money or credit
 - Identify election expenses incurred by official representative
 - Identify election expenses incurred personally by candidate
 - Monitor authorized election expenses regularly
 - Identify deemed contributions
 - Submit invoices for payment or pay suppliers



Roles and Responsibilities: Association and Candidate Level

- EDA/OA (cont'd)
 - *If possible, pay all liabilities and close bank account prior to submitting return*
 - **Submit electoral financial return**
 - *If still open, complete banking transactions, close account, and submit details to ENB*
 - **Comply with PPFA**
 - **May not:**
 - Accept contributions
 - Arrange financing



Roles and Responsibilities: Association and Candidate Level

- Candidate
 - **May not:**
 - Arrange financing
 - Supply personal financing directly to campaign – only through RDA or party
 - **May:**
 - Accept *contributions* for RDA/party if authorized
 - Incur personal lodging, food, and travel costs, and may be reimbursed as election expenses
 - Personally incur \$2,000 in election expenses without prior authorization of EDA/OA
 - Submit details within 20 days of election
 - If not reimbursed, a deemed contribution



Roles and Responsibilities: Association and Candidate Level

- Campaign manager
 - *Understand and respect legislated roles and responsibilities*
 - *Communicate with EDA/OA regularly*
 - *Obtain authorization to incur election expenses*
 - **Comply with PPFA**



Roles and Responsibilities: Volunteers

- Volunteer labour
 - *“The donation by an individual of his personal services, talents or expertise, or the use of his vehicle and the product of that donation, where it is given freely and not as part of his work in the service of an employer,” is not considered a contribution nor an election expense*
 - Leaves of absence with pay prohibited
 - Restrictions on federal and provincial employees engaging in political activity



Campaign Finances

- Annual contribution and financing limit of \$3,000
 - *Now includes financing*
 - *Per individual, including a candidate, to a political party and its RDAs and campaigns*
 - *No longer permitted by corporations and trade unions*
- Contributions from fundraising activities
 - *Full ticket price, not profit/ticket*
 - *Full bid on auction item*



Campaign Finances

- Individuals may provide contributions and financing
 - Financing includes guarantees of loans
- Banks and other commercial lending institutions may provide financing but not contributions
 - Financing not subject to \$3,000 limit
 - No guarantees required



Campaign Finances

- Exception: Incurring election expenses using a person's own money or credit
 - Not considered financing if authorized and reimbursed by official agent
 - If not reimbursed, deemed a contribution by purchaser



Definition of Election Expenses

- PPFA, s. 67(1)
 - "Election expenses" means all expenditures incurred during an election period for the purpose of promoting or opposing directly or indirectly, the election of a candidate or that of the candidates of a party, including every person who subsequently becomes or who is likely to become a candidate, and includes all expenditures incurred before an election period for literature, objects or materials of an advertising nature used during the election period for such purposes
- Includes:
 - Contributions of property and services to a campaign
 - Unreimbursed purchases



Spending limits on election expenses

- Calculation
 - # registered electors in electoral district times inflation-adjusted rate per elector
 - Electors determined from Preliminary List of Electors at issue of writ
- Estimate
 - 12,000 electors X \$3.65/elector = \$43,800
- www.electionsnb.ca
 - Political Financing → Information and Guidelines → Estimated Election Expenses Limits



Election Expenses Reimbursement

- Paid to registered district association
 - No longer to official agent of candidate
- Estimate
 - 12,000 electors X \$1.41/elector = \$16,920
- www.electionsnb.ca
 - Political Financing → Information and Guidelines → Estimated Election Expenses Limits



Electoral activities

- Official start of election period
- Pre-writ advertising
- Election-period advertising
- Campaign offices
- Wages paid to campaign workers and candidates
- Nominating conventions
- Direct cost of fundraising activities during election period
- Election Day expenses
- Constituency offices of MLAs



Official Start of Election Period

- 12:01 AM on date writs of election issued
- Only "pre-writ advertising" before start



Pre-writ Advertising

- Annual advertising spending limits
 - RDA: \$3,000
 - Party: \$200,000
 - Aggregate limit of \$200,000 for Party and its RDAs



Advertising subject to annual limits

1. Broadcasting undertakings

- Production costs of acquiring advertisements
- Media buys for television ads
- Media buys for radio ads
- Television ads and video distributed over the internet as part of programming



Advertising subject to annual limits

2. Newspapers and periodicals

- Ads in provincial daily newspapers
- Ads in regional weekly newspapers
- Ads in service organizations' monthly newsletters
- Ads in local community flyers



Advertising subject to annual limits

3. Other printed matter

- Billboards
- Roadside signs
- Lawn signs
- Campaign office signs
- Vehicle wrapping
- Brochures, rack cards, and door knockers distributed by candidates or volunteers



Advertising subject to annual limits

3. Other printed matter (cont'd)

- Postcards
- Restaurant placemats
- T-shirts, ball caps, sweaters and other clothing
- Pens, pins, buttons, and other memorabilia



Pre-writ Advertising NOT subject to annual limits

- Not covered by PPFA, s.50(1)
 - *Paid advertising on the internet and social media*
 - Google, Facebook, Twitter
 - "Robocalls"; i.e. automated dialer messages
- Exempted by PPFA, s.50(2)
 - *Notice of public meetings*
 - Nomination meeting
 - Meet the candidate(s) or leader



Pre-writ Advertising NOT subject to annual limits

- Exempted by PPFA, par. 50(3) (a)
 - *Cost of postage for the mailing of letters, printed materials, and cards*
 - e.g. Canada Post unaddressed ad-mail fees
- Exempted by PPFA, par. 50(3) (b)
 - *Production and distribution of newsletters distributed solely to party members*



Pre-writ Advertising NOT subject to annual limits

- Exempted by PPFA, par. 50(3)(c)
 - *Publication in a newspaper of best wishes for community events or holidays*
 - *May not contain name and/or picture of candidate or be from candidate*
 - *Roadside signage is not in a newspaper; therefore, signs wishing a safe holiday weekend will be subject to limit*



Pre-writ Advertising

- Identification disclosures
 - *Printing companies will want same disclosures as required during election period*



Election-Period Advertising: Identification disclosures

- PPFA, section 73
 - *Bear the name of the candidate or party on whose behalf it was ordered*
 - *If printed advertisements, include name and address of printer*
- Taglines necessary on:
 - *Regional ads for multiple candidates*
 - *Attack ads on another party's leader or candidate*
 - *"Ordered on behalf of XYZ"*
- Internet-based ads, too



Advertisements used pre-writ AND during election period

- Official agent
 - *Reimburse official representative for cost of advertisements*
 - Signage reimbursed at full cost
 - Door-knockers, hand-bills, brochures, etc. allocated based upon quantities distributed pre-writ and during election-period



Signs used in previous elections

- Previously-used signage assigned current retail value of similar, new materials
 - *Determined by official representative*
 - *Signs, wooden frames, posts, etc.*
- Official agent reports election advertising expense and “other income”
- Not eligible for reimbursement



Vandalized, stolen, or destroyed signs

- Replacement costs do not constitute election expenses
- Official agent requests exemption from Supervisor



Placement of signs

- Certain restrictions on highway signs
 - *Department of Transportation and Infrastructure*
 - *Municipalities*
 - *NB Power*
 - *Bell Aliant*



Unsolicited communications with electors

- Examples
 - *Live voice calls to inform of polling stations*
 - *“Robocalls” promoting a candidate*
 - *Opinion polls and surveys*
- CRTC rules for political parties and candidates
 - <http://crtc.gc.ca/eng/phone/telemarketing/politi.htm>



Restricted advertising period

- Election Day and Sunday preceding it
- No speech, entertainment, or advertising program in favour of or on behalf of any political party or candidate:
 - *Broadcast over radio or TV station*
 - *Published in newspapers, magazines, etc.*
 - *Unsolicited electronic communications to telephones, computers, fax machines or any other device; e.g. Robocalls, mass emails*
- Non-commercial use of Facebook and Twitter permitted



Restricted advertising period

- Printed materials may continue to be distributed in person or by Canada Post
- Additional signs may continue to be posted
- Parked vehicles may bear advertising
 - *No ads on moving vehicle on Election Day*



Restricted advertising period

- Within 30 metres (100 ft.) of a regular or advance polling station:
 - *No printed campaign materials displayed*
 - *No audible political propaganda heard*
 - *No political badges worn*
 - *Candidates and workers may greet electors but must not impede access*
- No restriction on locating a campaign office near a returning office
 - *Returning office not a "polling station"*



Campaign Offices

- Costs treated as election expenses, regardless when incurred
 - *Rent*
 - *Insurance*
 - *Computer systems and office equipment*
 - *Telephone lines and cellular phones*
 - *Campaign website*
 - *Election night celebrations*
 - *Removal of road signage*
 - *"Thank you" notices in papers*



Wages Paid to Campaign Workers and Candidates

- To be eligible for reimbursement:
 - *Wages and honoraria must be agreed to in advance*
 - *Must be paid prior to Election Day*



Nomination Conventions

- If nomination convention held during election period, reasonable costs are:
 - *Rental of a hall*
 - *Advertising date, place, time, program, and organizers*
 - *Convening delegates, and*
 - *Providing refreshments and entertainment*
- All other costs are excessive
 - *Deemed election expense of nominated candidate*



Fundraising Activities held during Election Period

- Direct costs of fundraising activity deemed to be election expenses of candidate
- Official representative to advise official agent



Election Day expenses

- Cash advance may be provided by official agent to campaign poll captains
- Poll captains must provide itemized statement of amounts paid to workers, refreshments, etc. to official agent
- Excess cash to be returned to official agent for deposit



MLA's Constituency Office

- MLA's communications with constituents
 - *Non-partisan in nature*
- MLA's Constituency Office
 - *May never be used for partisan political activity*
 - *May not be used for campaign office*
 - *Must be closed during election period*

Source: Orientation Manual 2014, Legislative Administration Committee, Legislative Assembly of New Brunswick



Access to Apartment Buildings

- *Residential Tenancies Act, s. 17:*

A landlord, his servants or agents, shall not unreasonably restrict access to the premises by candidates, or their authorized representatives, for election to the House of Commons, the Legislative Assembly or any office in a municipal or rural community government for the purpose of canvassing or distributing election material.

- Access not granted to condominiums with no landlord



III. Third-Party Election Advertising



Outline

- Third party
- Election advertising
- Advertising identification
- Election advertising expenses
- Examples



Third Party

- "Third party" means
 - *a person or group other than a registered political party, a registered district association or a candidate.*
 - *A "group" means a group of persons acting together by mutual consent for a common purpose, and includes a trade union.*



Election advertising

- "Election advertising" means
 - *"a message transmitted to the public by any means during a campaign period that promotes or opposes a registered political party or the election of a candidate or takes a position on an issue with which a registered political party or a candidate is associated...."*
- Unrestricted advertising permitted prior to the campaign period



Election advertising

- "Election advertising" does not include:
 - a) An editorial, debate, speech...or news
 - b) Distribution or promotion of a book if it was planned irrespective of the election
 - c) The transmission of a document directly by a person or a group to its members, employees or shareholders
 - d) The transmission by an individual, on a non-commercial basis, of his or her personal political views via the Internet



Advertising identification

- Advertising identification required
 - For any third party who advertises during campaign period, not just those registered
 - Required authorization and identification information
 - Name of third party
 - Name of person responsible for books and records and telephone number or address



Election advertising expenses

- Third parties must register with ENB immediately after incurring election advertising expenses exceeding \$500 in total
 - May register in advance
- Spending limits
 - www.electionsnb.ca
 - Political Financing → Information and Guidelines → Estimated Election Expenses Limits
 - Estimated \$15,000 or \$1,500 per single district



Examples



IV. Financial Reporting



Outline

- Financial returns
 - Registered nomination contestants
- Electoral financial returns
 - Candidates
 - Registered political parties
- Advertising expenditure report
 - Registered third parties
- Annual financial returns
 - Registered district associations
 - Registered political parties
- Public Inspection of Financial Returns



Registered Nomination Contestants

- The contestant's official representative must file a financial return no later than **30 days** following the contestant's nomination convention
 - *If this falls during the election period, date extended to **90 days** after polling day.*
- www.electionsnb.ca
 - *Political Financing → Electoral Financial Returns: Templates → Financial Return of Registered Leadership or Nomination Contestant*



Candidates

- The candidate's official agent must file an electoral financial return no later than **60 days** following the return of the writ of election.
- www.electionsnb.ca
 - *Political Financing → Electoral Financial Returns: Templates → Electoral Financial Return for Candidate*
- Examined in order received
 - *Reimbursements of election expenses issued accordingly*
 - *Candidate deposit will be returned to the candidate*



Registered Political Parties

- The political party's chief agent must file an electoral financial return no later than **120 days** following the return of the writ of election.
- www.electionsnb.ca
 - *Political Financing → Electoral Financial Returns: Templates → Electoral Financial Return for Registered Political Party*



Registered Third Parties

- The third party's chief financial officer must file an advertising expenditure report no later than **90 days** following Election Day.
- www.electionsnb.ca
 - *Political Financing → Electoral Financial Returns: Templates → Advertising Expenditure Report of Registered Third Party*



Registered District Associations

- The official representative of the registered district association must file an annual financial return no later than **March 31** for the preceding calendar year.
- www.electionsnb.ca
 - *Political Financing → Annual Financial Returns: Templates → Financial Return for Registered District Association*



Registered Political Parties

- The official representative of the registered political party must file two financial returns annually:
 - *for the first six months of the year, to be submitted not later than **September 30** of that year.*
 - *for the 12 months of the year, to be submitted not later than **May 31** of the following year.*
- www.electionsnb.ca
 - *Political Financing → Annual Financial Returns: Templates → Financial Return for Registered Political Party*



Public Inspection of Financial Returns

- All financial returns are available for public inspection during ordinary business hours at the office of Elections New Brunswick.
- www.electionsnb.ca
 - *Political Financing* →
Public Inspection of Financial Returns
 - Political Parties, Leadership Contestants, Nomination Contestants, Independent Candidates, and Third Parties
 - Filing Status Reports



Questions?

