



**Elections
Ontario**

We Make Voting Easy.

Election Finances CFO Handbook for Third Parties

2022

Note: This handbook is effective until December 31st, 2022.

January 2022

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Disclaimer

This handbook provides guidance from Elections Ontario about how to comply with the *Election Finances Act*. To the extent that any conflict exists between this handbook and the *Election Finances Act*, the *Election Finances Act* prevails.

The most recently published handbook and forms for Third Parties can be found online, by clicking this [link](#) or by scanning the quick response (QR) code below using the camera on a smartphone.



Further information

Elections Ontario's staff is always available to provide assistance. Please contact the Compliance Division at:

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Online resources provided by Elections Ontario

The Elections Ontario website features tools that our stakeholders can use to view information on financial returns, contributions and filing data. The webpages feature information related to the following topics:

- Registered political parties, reserved party names, and third party advertiser information;
- CFO handbooks and forms;
- Financial returns and contributions;
- Graphics and charts utilities;

- A bulk download utility for contributions;
- Searchable database of political financing and party information;
- Eligible and paid quarterly allowances to political parties and constituency associations;
- Nomination and leadership contests and contestants; and
- Information for candidates.

The “[Graphics and Charts](#)” section provides stakeholders with utilities to represent the contribution data using a graphical interface. Political entities can use this to view contribution information from past events, and totals per year and per event by party and electoral district.

More information can be found on our [website](#).

Political Entity Portal (PEP)

The [Political Entity Portal](#) (PEP) is an optional online filing tool that political entities can use to file their financial statements. All active key stakeholders who are affiliated to a registered political entity have access to the portal pending a brief sign-up activity.

Some of its key features include:

- Ability to complete financial statements – from data entry, to audit and submission – all online;
- Access to historically filed financial returns and download capabilities;
- Update your personal contact information; and
- Attachments, comments, and return PDF.

Contact us at eFiling@elections.on.ca for more information on PEP.

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Introduction

This section explains who is a third party advertiser under the *Election Finances Act*.

A third party is any person or entity that is not a registered political party, registered candidate or registered constituency association, and that engages in political advertising. Third parties include corporations, partnerships, unincorporated businesses and associations, and many other groups.

You are a third party if you are planning on advertising during any general election or by-election in Ontario, and you must comply with the provisions set out in sections 37.1 to 37.13 of the *Election Finances Act* which apply to third party political advertising, with respect to registration and filing requirements as well as spending limits.

Every person or entity spending \$500 or more on political advertising in either the twelve months before a fixed date general election (the non-election period) or during an election period; and who is not a registered candidate, political party, or constituency association, must register with Elections Ontario. Registration is not required where the third party is spending less than \$500 on political advertising in either the non-election period or the election period. [Act reference 37.5(1)]

Definitions

This section explains the definition of political advertising and a third party, and the election periods for by-elections, and fixed and non-fixed date general elections.

Third Party

Third Party means any person or entity that is not a registered candidate, political party, or constituency association. [Act reference 1(1)]

The Act does not apply to government advertising by 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.

Political advertising

Political advertising is advertising in any medium with the purpose of promoting or opposing any registered party or its leader or the election of a registered candidate to the Ontario Legislature. This includes advertising that takes a position on an issue that can reasonably be regarded as closely associated with a registered party or its leader or a registered candidate. This includes but is not limited to advertisements appearing in any broadcast, print, or online.

Refer to the Political Advertising section in this handbook for more information.

Election period

For a fixed date general election, the election period is the period commencing at 12:01 AM on the day the writ is issued, and terminating on polling day.

For a by-election or general election with a non-fixed election date, the election period is the period commencing with the issuance of the writ for an election and terminating on polling day. [Act reference 37.1]

General Elections

The following text explains the two types of general elections: fixed date and non-fixed date.

Fixed date general election

An election in all electoral districts, following the dissolution of the legislative assembly, where election day is scheduled by section 9.1 of the *Election Act*.

Non-fixed date general election

An election in all electoral districts, following the dissolution of the legislative assembly, where election day is not scheduled by section 9.1 of the *Election Act*.

By-election

An election in an electoral district, between general elections.

Non-election period

This only applies to fixed date general elections, and, for political parties, represents the six-month period preceding the date the writs are issued. For third parties, the non-election period represents the 12-month period preceding the date the writs are issued.

Roles and Responsibilities

This section explains the roles and responsibilities of a chief financial officer and an auditor for a third party.

Chief Financial Officer (CFO)

A chief financial officer (CFO) is a person appointed by a third party to record, report and keep financial information in accordance with the *Election Finances Act*. All third parties must appoint a CFO before registration. If the appointment ends for any reason, a new CFO must be appointed immediately and the Chief Electoral Officer (CEO) informed in writing immediately. [Act references 37.5(3), 37.5(4) and 37.6(1)]

Selecting and appointing a CFO

The obligations of a CFO are significant. Because of the skills required, it is recommended that the CFO have knowledge of accounting or bookkeeping.

A CFO cannot be the auditor of his or her own third party, a returning officer, deputy returning officer, election clerk, registered candidate, or CFO or auditor of a registered candidate, political party, constituency association or leadership contestant. [Act reference 37.6(3)]

Submit the Third Party Registration and Change Notice Form (TP-1) to Elections Ontario when appointing a CFO.

Responsibilities of the CFO

The CFO is legally responsible for:

- certifying any changes in registration information reported to Elections Ontario;
- keeping proper financial records of all income and expenditures, including deposit slips, invoices, etc.;
- ensuring that only eligible contributions are accepted, and corrective action is taken where ineligible contributions have been accepted;
- depositing all funds received in the financial institution on record with Elections Ontario;
- recording contributions consisting of goods and services at fair market value;
- keeping a list of all contributions received, including name, address, and class of contributors;

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Roles and Responsibilities

- filing the Interim Advertising Reports with Elections Ontario;
- filing the Third Party Political Advertising Final Report with Elections Ontario by the deadline date;
- authorizing and processing all payments on time;
- keeping all financial records for a minimum of six years as recommended by the Canada Revenue Agency (CRA); and
- transferring all financial records to the incoming CFO when leaving the position.

Auditor

A third party must appoint an auditor if it intends to spend, or as soon as it has spent, \$5,000 or more on political advertising. Elections Ontario must be informed of the appointment in writing.

An auditor is appointed by a third party to provide an opinion on whether the Third Party Political Advertising Final Report presents fairly the information contained in the financial records.

If the appointment ends for any reason, a new auditor must be appointed immediately and Elections Ontario informed in writing immediately. [Act references 37.7(1), 37.7(4), 37.7(5), 37.13(1) and 37.13(2)]

Selecting and appointing an auditor

An auditor or firm appointed must be an auditor licensed under the *Public Accounting Act, 2004* or a firm whose partners resident in Ontario are licensed under that Act.

An auditor for a Third Party cannot be:

- the third party's CFO;
- a person who signed the application;
- a returning officer, deputy returning officer or election clerk;
- a candidate; or
- the CFO or auditor of a registered candidate, political party, constituency association, leadership contestant or of another registered third party.

[Act reference 37.7(3)]

The appointment of an auditor must be communicated in writing by submitting the Third Party Registration and Change Notice Form (TP-1) to Elections Ontario. [Act reference 37.7(4)]

Request for auditor's opinion

A third party that incurs \$5,000 or more in third party political advertising expenses shall include a report from the auditor. [Act reference 37.7(1)]

The third party's auditor must report on the Third Party Political Advertising Final Report and must make any examination that will enable the auditor to give an opinion in the auditor's report as to whether the Third Party Political Advertising Final Report presents fairly the information contained in the accounting records.

Responsibilities of the auditor

The auditor must:

- meet with the CFO of the third party to discuss the audit process well before the filing date to determine cut-off and closing procedures and to agree on a date when the auditor will be given access to all records, documents, books, accounts and vouchers of the third party that may be necessary to issue the auditor's report;
- provide an opinion on the Third Party Political Advertising Final Report of the third party;
- provide an opinion on the supporting schedules of the Third Party Political Advertising Final Report of the third party; and
- collect payment from the third party for the work performed.

Registration

This section explains the requirement, process and forms to register a third party, and update changes in registration information.

Do I need to register?

Please refer to the checklist below to determine if you need to register as a third party.

- 1) Have I (or my organization) spent, or do I intend to spend \$500 or more on political advertising in either the twelve months before a fixed date general election (the non-election period) or during an election period?
- 2) Is my advertising election-oriented that expressly or impliedly supports or opposes political parties or their leaders, candidates or platforms? In particular:
 - Does my advertising take a position on an issue that can reasonably be regarded as closely associated with a registered party or its leader or a registered candidate?
 - Is my advertising specifically planned to coincide with the non-election period or election period?
 - Is the formatting or branding of the advertisement similar to a registered political party's or registered candidates formatting or branding or election material?
 - Does the advertising make reference to the election, election day, voting day or similar terms?
 - Does the advertisement make reference to a registered political party or registered candidate either directly or indirectly?
 - Is there a material increase in the volume of advertising I normally conduct?
 - Has this advertising historically occurred during the relevant time of the year?
 - Is the advertising consistent with previous advertising I have conducted?
 - Is the advertising within the normal parameters of promotion of a specific program or activity?

- Is the content of the advertisement similar to the political advertising of a party, constituency association, nomination contestant, candidate or leadership contestant registered under the Act?

Requirement to register

Every person or entity spending \$500 or more on political advertising in either the twelve months before a fixed date general election (the non-election period) or during an election period and that is not a registered candidate, political party, or constituency association, must register with Elections Ontario. Registration is not required where the third party is spending less than \$500 on political advertising in either the non-election period or the election period. [Act reference 37.5(1)]

Examples:

For the 2022 fixed date general election scheduled for June 2, 2022, and writ issued on May 4, 2022:

- Third Party #1 spends \$300 in political advertising in the non-election period and is not required to register. During the election period, Third Party #1 spends \$450 on political advertising, and is not required to register.
- Third Party #2 spends \$300 in political advertising in the non-election period and is not required to register. During the election period, Third Party #2 spends \$550 on political advertising, and is required to register and submit Third Party Political Advertising Reports for the spending that occurred only during the election period.
- Third Party #3 spends \$700 in political advertising in the non-election period and is required to register. Third Party #3 is required to register and submit Third Party Political Advertising Reports that will include any political advertising spending for both the non-election and election period.

For a by-election with a polling date of June 30, and a writ issued on June 1:

- Third Party #4 spends \$475 in political advertising in the election period and does not have to register.

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Registration

- Third Party #5 spends \$610 in June on political advertising, and would be required to register and submit Third Party Political Advertising Reports.

The registration timeframe will depend on the type of election:

- Fixed date general elections:

Elections Ontario may register a third party beginning twelve (12) months before the date of issuance of the writs. An application received prior to the 12-month period from the date of the issuance of the writs, will be deemed effective on the date that is twelve (12) months before the day the writs are issued, provided that the application is complete.

- Non-fixed date general elections and by-elections:

Elections Ontario will register a third party no earlier than the day the writs are issued. An application received prior to the issuance of the writs, will be deemed effective on the day the writs are issued, provided that the application is complete. A third party applying for registration after the writ is issued will be considered registered the day the application is received, providing approval of the application by Elections Ontario. [Act reference 37.5(6)]

Elections Ontario will send written confirmation of registration to the third party. Elections Ontario will provide training materials and other information for the operations of the third party.

If the application of a third party is not approved, Elections Ontario will provide the third party with reasons for the refusal. [Act reference 37.5(6)]

Appointing a CFO and auditor

A third party must appoint a CFO before registering with Elections Ontario. [Act reference 37.5(3)]

A third party must appoint an auditor if it intends to spend, or as soon as it has spent, \$5,000 or more on third party political advertising. [Act reference 37.7(1)]

Refer to the Roles and Responsibilities section which explains their duties.

Contents of application and filing methods

The following text explains completing and submitting a third party registration form.

Application form

The registration requirements are listed within the Third Party Registration and Change Notice Form (TP-1) and the Form Completion Guide. The Form TP-1 must be submitted at the time of application for registration. [Act reference 37.5(2)]

Approval of name

Elections Ontario will determine whether a proposed name and abbreviation is acceptable for registration based on the following criteria:

- the proposed name and abbreviation must not be so similar to another third party, candidate, political party or political organization active in Canada that it could cause confusion; and [Act reference 37.5(8)]
- the proposed name and abbreviation must not be abusive or offensive.

Third Party with a governing body

Where a third party 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. [Act reference 37.5(5)]

Application filing methods

The completed and signed Third Party Registration and Change Notice Form (TP-1) can be sent to Elections Ontario by any delivery method so long as the application is complete. Examples of accepted delivery methods include mail, fax, email, or hand delivery.

Approval of application

Elections Ontario, prior to approving an application, can request further information and undertakings from the third party as determined necessary to verify compliance with the *Election Finances Act*.

Consult with your financial institution regarding their requirements for opening an account.

Change in registration information

The following text explains how to report changes in registration information.

Written notice of changes

Whenever there is any change of registration information, a third party must provide written notice of the change to Elections Ontario immediately by

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filing a revised Third Party Registration and Change Notice Form (TP-1). The revised form must be signed by the CFO and third party (or its officers).

A change in registration information includes a change to:

- the full name of the third party;
- the principal officers of a third party;
- the CFO of a third party;
- the auditor (if applicable) of a third party;
- the persons authorized by a third party to accept contributions;
- the address of the place or places in Ontario where records of a third party are kept and of the place in Ontario to which communications may be addressed;
- the name and address of every financial institution at which a bank account is held by a third party for holding contributions; and
- the signing officers responsible for each bank account.

Change in CFO or auditor

When there is a change in CFO or auditor, the third party must immediately appoint another CFO or auditor and file a revised Third Party Registration and Change Notice Form (TP-1) containing the name, address, and telephone number of the new CFO or auditor. [Act references 37.5(4) and 37.7(5)]

For a change in CFO, the revised form must be signed by the incoming CFO and third party (or its officers).

For a change in auditor, the revised form must be signed by the CFO and third party (or its officers).

In addition, where there is a change in CFO, the person accepting the appointment shall receive the financial records of the third party from the outgoing CFO.

If these documents are not provided, the new CFO must write to advise Elections Ontario of the steps taken to secure the documents.

Responsibility for notification

The responsibility for notifying Elections Ontario of changes in registration information lies with the third party. Elections Ontario will rely and act on information submitted by the third party and CFO last on record with Elections Ontario.

End of registration

The registration of a third party ends on polling day when the election period ends. The third party must file a Third Party Political Advertising Final Report within six months of polling day. [Act reference 37.5(10)]

Contributions

This section explains contributions: the sources, limits, types, and disclosure applicable to a third party.

Contributions are funds, goods, or services given to a third party for third party political advertising purposes outlined in the *Election Finances Act*. There are restrictions as to the source and form of contributions. In addition, there are recording and reporting requirements for contributions.

Funds raised for purposes other than third party political advertising are not regulated by the *Election Finances Act*.

Eligible contributions

Only contributions solicited for third party political advertising purposes under the *Election Finances Act* will be considered to be a contribution. Contributions must be made using the contributor's own funds.

Literature and communication used to solicit contributions

All literature and communication used to solicit third party political advertising contributions by or on behalf of a third party must clearly identify the third party receiving the contribution. The solicitation must also provide an opportunity for the contributor to determine that the contribution is to be used only for the purpose of third party political advertising or that the contribution may be used for the discretionary purposes of the third party.

Sources of contributions

The following text explains sources of political contributions applicable to a third party.

Eligible contributors

Contributions for the purposes of funding third party political advertising may be made to a third party only by:

- a person who is normally resident in Ontario, including a person serving in the armed forces, diplomatic service, or similar type of employment abroad if that person's normal home is in Ontario;
- a corporation carrying on business in Ontario that is not a registered charity; or
- a trade union.

[Act reference 37.10(1)]

Contributions from third parties

Any contribution from one third party to another third party for the purposes of political advertising shall be deemed as part of the expenses of the contributing third party. [Act reference 37.10.1(3.1)]

Contributions from corporations

Any of the following criteria are considered acceptable evidence that a corporation is carrying on business in Ontario:

- The corporation keeps an office or establishment in Ontario for the purpose of carrying on its business activities to which one (1) or more employees report to work;
- The corporation enters into contracts in Ontario on a regular basis either through its officers, employees, or agents having general authority to act on its behalf;
- The corporation is an extra-provincial corporation may make contributions if it is carrying on business in Ontario in accordance with the requirements of sections 1 and 4 of the *Extra-Provincial Corporations Act*; or
- The corporation is taxable in Ontario under the *Taxation Act, 2007*.

CFOs must make reasonable efforts to satisfy themselves that the contributing corporation is entitled to make a contribution.

Associated corporations, so long as they each carry on active business in Ontario, are considered to be separate corporate contributors. [Act reference 1(2)]

A joint venture of two or more corporations may be a partnership, in which case contributions must be treated as coming from an unincorporated association or organization and the contribution must be recorded separately for each participating corporation.

A business operating as a partnership is treated as an unincorporated association or organization. A business operating as a sole proprietorship is treated as an individual for contribution purposes.

Contributions from trade unions

A trade union is eligible to give contributions if it is a trade union as defined by the *Labour Relations Act* or the *Canada Labour Code* that holds bargaining rights for employees in Ontario to whom those acts apply and includes any

central, regional, or district labour council located in Ontario. [Act reference 1(1)]

Contributions from unincorporated associations and organizations

An unincorporated association or organization is any association or organization not incorporated under any corporation act or special act that gives the association or organization the status of a legal entity. The unincorporated association or organization must have an ongoing reason for existence such as business, professional, social, social action, fraternal, cultural, or other similar purposes and not be formed simply for the purpose of making political contributions.

Example:

Business and professional partnerships, joint ventures, clubs, and societies are examples of unincorporated associations and organizations.

An unincorporated association or organization, other than a trade union, cannot contribute as a group. For any contribution to a third party made through an unincorporated association or organization, the original person, corporation, or trade union providing the funds will be considered the contributor. As a result, each individual contributor must meet the eligibility requirements for contributions under the *Election Finances Act* to be able to contribute. [Act reference 37.10(5)]

The unincorporated association or organization must record details of the individual sources (name and address) and amounts making up the contribution by the unincorporated association or organization. A copy of these records must be provided to the CFO of the third party receiving the contribution for the third party's records. [Act references 37.10(3) and 37.10(4)]

Examples:

A contribution from the partners of a professional partnership such as a firm of chartered accountants, lawyers, dentists, etc., must be broken down into its particular sources and amounts. The CFO must receive this information in writing before accepting the contribution.

- A business that is organized as a partnership and not as a limited company, such as Daniel & Rahul's Garage, which is a partnership of Daniel and Rahul, is an unincorporated organization. The CFO must be careful to determine that this is indeed an unincorporated

business. The CFO must receive the information regarding the partners and the amounts of their contributions in writing before accepting the contribution.

- The Monday Afternoon Bridge Club, an unincorporated club, wishes to contribute \$1,500 to a third party. This contribution must be broken down into its particular sources and amounts. For instance, \$500 may have come from Suyin, \$500 from Brigitte, \$300 from Daniel, and \$200 from Rahul, who are some or all of the club's members. The CFO of the third party must receive this information in writing before accepting the contribution.

Ineligible contributions

The following text explains ineligible contributors, and anonymous and conditional contributions.

Ineligible contributors

No third party may directly or indirectly knowingly accept contributions from an ineligible contributor.

Ineligible contributors to a third party include, but are not limited to:

- any source outside Ontario;
- registered charities;
- corporations not carrying on business in Ontario;
- members of the House of Commons living in Ontario but representing an electoral district outside Ontario;
- federal political parties and constituency associations; and
- political parties or constituency associations from other provinces.

Anonymous contributions

A third party must not accept anonymous contributions. [Act reference 37.10(2)]

A third party must return anonymous contributions to the contributor. If the contributor cannot be identified, the funds must be paid to Elections Ontario.

Contribution limits

There are no limits on the amount of contributions that may be accepted by a third party.

Form of contributions

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

Monetary contributions

A monetary contribution to a third party of up to \$25 may be given in cash. Any monetary contribution of more than \$25 shall not be contributed through cash. Such contributions must be made by any modern financial practice where the contributor and their account information can be confirmed. Such practices include payment by cheque, credit card, E-transfer, money order signed by the contributor, debit card, or online payment (for example PayPal) or cryptocurrency (for example Bitcoin). [Act reference 37.11(1)]

Non-monetary contributions

The following text explains non-monetary contributions: good and services.

Goods and services

All goods or services provided by a supplier are considered a contribution with an offsetting expense. Whenever goods or services have been provided, whether or not considered to be a contribution for the purposes of the *Election Finances Act*, an expense in the equivalent fair market value is considered to have been incurred.

An exception, where goods and services are not considered to be a contribution, is when goods and services are produced by voluntary labour.

Value of goods and services

The value of goods and services is considered to be the fair market value for similar goods and services at the time they are provided.

If the contributor is in the business of supplying such goods and services, fair market value is the lowest amount charged by the contributor for an equivalent amount of goods and services at the same time and in the same market area.

Where the contributor is not in the business of supplying such goods and services, fair market value is the lowest amount charged at the same time by any other person or corporation providing similar goods on a commercial retail basis or similar services on a commercial basis in the same market area.

Goods and services provided for less than fair market value

Where goods and services are provided for a price less than fair market value, including goods and services that are not paid for or where there is an agreement not to accept payment, the difference between the price and fair

market value must be considered a contribution. However, the rules regarding the eligibility of contributors still applies.

Supporting documentation for goods and services

All contributions of goods and services must be supported by an invoice, statement of account, or receipt from the supplier of the goods and services.

When all or part of a fee is considered by the supplier to be a contribution, the supplier must submit a statement of account and indicate on it the amount considered to be a contribution. The supplier is responsible for reporting these amounts as income on the supplier's tax return.

Administering contributions

The following text explains accepting, recording, and reporting contributions for a third party.

Accepting contributions

The following text explains accepting and depositing contributions.

Deposit of contributions

Contributions will be considered accepted:

- if paid by cash, cheque, E-transfer, cryptocurrency (for example Bitcoin), money order, or debit card, at the time the contributions are deposited in the financial institution on record with Elections Ontario; or
- if paid by credit card, online payment (for example PayPal) or any other manner that associates the contributor's name and account with the payment, on the date of the transaction.

All money collected by or on behalf of a third party for the purposes of political advertising, must be deposited in the financial institution on record with Elections Ontario. [Act reference 37.11(2)]

Contributions received in an envelope postmarked prior to the end of a reporting period, or received on the last day of a reporting period that cannot be deposited because the financial institution is closed, must be recorded as an outstanding bank account deposit on the last day of the reporting period. Each outstanding deposit must be deposited on the next available banking day.

Persons authorized to accept contributions

Only the CFO or other authorized persons noted on the Third Party Registration and Change Notice Form (TP-1) filed with Elections Ontario may accept contributions. While the *Election Finances Act* permits other

authorized persons on record to accept contributions, it is the CFO's responsibility to ensure that only eligible contributions are accepted and appropriately recorded. [Act references 37.9(1) and 37.9(3)]

Any contributions collected by others, for example, by means of a door-to-door canvass, must be turned over immediately to the CFO or other persons on record with Elections Ontario, along with a list of the names and addresses of the contributors and the amounts of their individual contributions.

Recording of contributions

The details of all contributors (name, address and class) and contributions accepted on behalf of a third party for its third party political advertising must be recorded by the CFO.

It is recommended that a recording system is established that designates, at the time of deposit, monies and donations in-kind contributed for the purposes of third party political advertising and those contributed for the general purposes of the third party. These separate categories are to be reported on the Third Party Political Advertising Final Report.

If the CFO is unable to identify which contributions were received for third party political advertising purposes during the period beginning six months before the relevant period and ending three months after polling day, the Third Party Political Advertising Final Report shall list the names and addresses of every contributor who donated a total of more than \$100 to the third party during that period.

Return of contributions

A CFO may learn that a contribution has been made or accepted in contravention of any provisions of the *Election Finances Act*. These contraventions may include, but are not limited to:

- contributions from unidentifiable or anonymous sources;
- contributions from ineligible sources;
- cash contributions in excess of \$25;
- contributions of funds not belonging to the contributor;
- contributions of funds from a federal political party or its organizations; or
- contributions of funds from a municipal candidate.

In these cases, the CFO must return to the contributor an amount equal to the sum contributed within 30 days.

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Any such contribution not returned to the contributor or any anonymous contribution accepted by a third party must not be used for any purpose and must be paid to Elections Ontario.

Reporting of contributions

The following text explains contributions required to be disclosed with advertising reports.

Public disclosure

It is recommended that contributors donating more than \$100 be notified that their names and addresses will be recorded and submitted with the Third Party Political Advertising Final Report, and that their names and amounts will be published by Elections Ontario on the Elections Ontario website. [Act reference 2(1)]

Reporting on Third Party Political Advertising Final Report

Recorded information regarding contributors and contributions greater than \$100 must be reported as part of the contributions schedule of the Third Party Political Advertising Final Report to be filed with Elections Ontario. [Act reference 37.12(4)]

Non-Contribution Income

This section explains other forms of income that are not considered to be contributions.

Use of own funds

A third party's own funds used for that third party's political advertising expenses must be recorded and reported separately in the Third Party Political Advertising Final Report. [Act reference 37.12(4)]

Transfers

A third party must not transfer funds, goods or services from or to a registered candidate, nomination contestant, leadership contestant, political party, or constituency association.

Loans

A third party must not accept loans from a registered political party or constituency association.

Political Advertising

This section explains political advertising: the authorization requirements, the blackout period and survey restrictions. It also explains the responsibilities of broadcasters or publishers.

Third party political advertising is any political advertising that appears in the twelve months before a fixed date general election and during any election period and is placed by or on behalf of a third party.

The *Election Finances Act* imposes limits on political advertising by third parties in the twelve months before a fixed date general election and during any election period. [Act reference 37.10.1]

Third parties cannot engage in political advertising if it promotes a political party, nomination contestant, candidate, or leadership contestant and is arranged for in coordination with that political party, contestant, candidate, or relevant constituency association. [Act reference 37.10.1(3)]

What is political advertising?

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. [Act reference 1(1)]

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. 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:

- whether it is reasonable to conclude that the advertising was specifically planned to coincide with the period referred to in Spending Limits section;
- 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;
- whether the advertising makes reference to the election, election day, voting day, or similar terms;
- whether the advertisement makes reference to a registered political party or registered candidate either directly or indirectly;

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- whether there is a material increase in the normal volume of advertising conducted by the person, organization, or entity;
- whether the advertising has historically occurred during the relevant time of the year;
- whether the advertising is consistent with previous advertising conducted by the person, organization, or entity;
- whether the advertising is within the normal parameters of promotion of a specific program or activity; and
- 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:

- the transmission to the public of an editorial, a debate, a speech, an interview, a column, a letter, a commentary or news;
- 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;
- communication in any form directly by a person, group, corporation or trade union to their members, employees or shareholders, as the case may be;
- the transmission by an individual, on a non-commercial basis on the Internet, of his or her personal political views; or

- the making of telephone calls to electors only to encourage them to vote.

Authorization on political advertising

All third party political advertising must name the third party authorizing the advertising.

No specific language is required for the authorization but it must be apparent what person or entity has caused the advertisement to appear and any other person or entity that has sponsored or paid for it.

An example of appropriate authorization wording is “Authorized by the XYZ entity”.

Sign placement

The *Election Finances Act* does not address where signs can or cannot be placed. When placing signs on public property, consult the local municipality to see what local by-laws allow or, when placing signs near a highway, consult the Ministry of Transportation.

Advertising restrictions

The following text explains the blackout period related to political advertising.

Blackout period

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

No third party may conduct paid commercial third party political advertising during a blackout period. [Act reference 37(2)]

No broadcaster or publisher may allow a third party election advertisement to appear during a blackout period. [Act reference 37(3)]

Exceptions to the blackout period

The following advertising activities are permitted during the blackout period:

- 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. 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)*;

- 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;
- 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. Even in cases of unpaid internet advertising, the rules around blackout restrictions apply unless this exception (or another exception) applies;
- 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;
- lawn signs displayed and brochures distributed can appear at any time; and
- personal emails and similar personal communications on the Internet, mass or individual mailing, automated or individual telephone calls, and personal social media communications/posts.

[Act references 37(4) and 37(7)]

Rates charged during campaign

No publisher or broadcaster may charge any more for advertising at election time than it would normally charge anyone else for an equivalent amount of space or time during the same period. [Act reference 37(6)]

Example:

When selling radio time, the station may not charge “triple A” rates for mid-morning slots.

The media may not give special low rates either.

In certain media, advertising rates may depend upon the volume of time or space purchased over the year. For the purposes of the *Election Finances Act*, the lowest rate must refer to the lowest rate available to any other customer purchasing the same volume of advertising as the volume of political advertising carried on by a third party during the same period.

Information provided to broadcaster or publisher

A third party election advertisement must not appear without providing the following information to the broadcaster or publisher, in writing:

- the name of the person, corporation, or trade union causing the election advertisement to appear;
- the name, business address, and telephone number of the individual dealing with the broadcaster or publisher on behalf of the person or entity causing it to appear; and
- the name of any other person, corporation, or trade union sponsoring or paying for the election advertisement.

Restriction on election surveys

An election survey (more commonly called a “poll”) is defined as an opinion survey of how electors voted or will vote at an election or regarding an issue with which a registered political party or candidate is associated. [Act reference 36.1(3)]

No third party may 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. [Act reference 36.1(1) and 36.1(2)]

Political Advertising Expenses

This section explains political advertising expenses and spending limits for a third party.

All expenses incurred by a third party for political advertising purposes are to be recorded and reported on the Third Party Political Advertising Final Report.

What are third party political advertising expenses?

Third party political advertising expenses are expenses incurred in relation to:

- the production of a third party political advertisement (“production costs”): this includes research, design, drafting text (“writing copy”), and manufacturing (including printing); and
- the purchase of means of broadcast of a third party political advertisement to the public (“placement costs”): this includes fees charged to place an advertisement on traditional broadcast media, as well as the placement cost for online advertisements, rental cost for a billboard or similar display, or any other cost incurred to promote an advertisement.

The expenses incurred for third party political advertising are determined using the following rules:

Where a political advertisement is displayed, broadcast, transmitted, or otherwise communicated during a regulated period (the non-election period or an election period),

- the full amount of the production costs for the advertisement are counted as a political advertising expense incurred during that period; and
- the amount of any placement costs relating to the display, broadcast, transmission, or communication of the advertisement during the regulated period are counted as a political advertising expense incurred during that period.

In other words, where an advertisement is displayed, broadcast, transmitted or communicated both during and outside of a regulated period, placement costs may be pro-rated as between the regulated and non-regulated placement periods but the production costs may not.

Example 1 – pro-ration of placement costs

The non-election period comprises the 12-month period preceding the date the writs are issued. A third party places an advertisement with a broadcaster that is to be broadcast for 14 months, starting two months before the start of the non-election period and to continue to be broadcast for the entire 12-month non-election period. The placement costs for the advertisement are \$1,000 per month, totalling \$14,000. Placement costs may be pro-rated. Therefore, the placement cost for the two-month period prior to the non-election period (\$2,000), are not subject to the third party advertising spending limit and this portion is not reportable. The remaining \$12,000 in placement costs, covering the 12-month non-election period, are subject to the third party advertising spending limit and this portion must be reported to Elections Ontario.

Example 2 – no pro-ration of production costs

Using the example of the same advertising above, the production costs of the advertisement are \$50,000. Even though the advertisement was broadcast for two months outside of the regulated non-election period, the production costs may not be pro-rated. Therefore, the \$50,000 in production costs, covering the entire 14-months during which the advertisement is broadcast, are subject to the third party advertising spending limit and must be reported to Elections Ontario.

Spending limit

The limits for spending will depend on the type of election.

For non-fixed date general elections, a third party must not spend:

- more than \$4,364 in the **election period in any electoral district** for the purpose of third party political advertising; or
- more than a total amount of \$109,100 **during an election period**, for the purpose of third party political advertising.

For a by-election, a third party must not spend:

- more than \$4,364 in the **election period in any electoral district** for the purpose of third party political advertising.

For a fixed date general election, a third party must not spend:

- more than \$26,184 **during a non-election period in any electoral district** for the purpose of third party political advertising; or

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- more than \$4,364 **during an election period in any electoral district**, for the purpose of third party political advertising; or
- more than a total amount of \$654,600 **during a non-election period**, for the purpose of third party political advertising; or
- more than a total amount of \$109,100 **during an election period**, for the purpose of third party political advertising.

2022 Spending Limit for Third Parties

The current spending limits are effective up to December 31, 2022. These amounts are indexed annually and our materials will be updated with the new amounts in January 2023. [Act reference 37.10.1]

Election Event Type	Period	Limit In any Electoral District	Total Spending Limit
Fixed date General Election	Non-Election Period (12-month period prior to Writ Day)	\$26,184	\$654,600
	Election Period (Writ Day to Polling Day)	\$4,364	\$109,100
By-election	Election Period (Writ Day to Polling Day)	\$4,364	Not Applicable
Non-Fixed date General Election	Election Period (Writ Day to Polling Day)	\$4,364	\$109,100

In addition to the any other applicable penalty, any third party that does not comply with the spending limits mentioned above is liable to a further fine not exceeding five times the amount by which the third party exceeded the applicable limit. [Act reference 46.0.2]

No combination to exceed limit

No third party shall circumvent, or attempt to circumvent, a limit set out in this section in any manner, including by,

- acting in collusion with another third party so that their combined political advertising expenses exceed the applicable limit;
- splitting itself into two or more third parties;
- colluding with, including sharing information with, a registered party, registered constituency association, registered candidate, registered

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leadership contestant, or registered nomination contestant or any of their agents or employees for the purpose of circumventing the limit;

- sharing a common vendor with one or more third parties that share a common advocacy, cause or goal;
- sharing a common set of political contributors or donors with one or more third parties that share a common advocacy, cause or goal;
- sharing information with one or more third parties that share a common advocacy, cause or goal; or
- using funds obtained from a foreign source prior to the issue of a writ for an election.
- Any contribution from one third party to another third party for the purposes of political advertising shall be deemed as part of the expenses of the contributing third party.

[Act reference 37.10.1]

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.

Examples:

- Representatives from two trade unions meet at a conference and discuss issues of public importance that relate to an election. Provided that this information is not being shared for the purpose of circumventing (or attempting to circumvent) the spending limits.
- Two corporations both use the same social media platform to make posts of political advertising. While they may “share a common vendor”, unless there is evidence that this has been done in a coordinated manner for the purpose of circumventing the regulations set out in the Act, this conduct does not violate the Act. Sharing a common vendor would violate the Act where it is done for the purpose of obtaining a volume discount (or other preferential treatment) that would artificially lower a third party’s political advertising expenses.
- Where an organization splits itself into two legal entities and arranges for a political advertising campaign to be conducted

whereby each new entity incurs expenses up to the spending limit, this would constitute a violation of the Act.

Goods and services

Election advertising expenses include not only cash payments made to outside vendors but also internal resources devoted to third party political advertising.

All goods or services provided that relate to third party political advertising, whether or not they are considered to be a contribution for the purposes of the *Election Finances Act*, are considered to be third party political advertising expenses incurred at fair market value.

Example:

If a third party's paid staff spend 10% of their time during a given period on activities related to the production or transmission of political advertising, the third party must record 10% of that employee's salary during the relevant time as an expense.

Approval of expenses

Every third party political advertising expense that is incurred by or on behalf of a third party must be authorized by its CFO or other authorized persons noted on the Third Party Registration and Change Notice Form (TP-1) filed with Elections Ontario. [Act references 37.9(2) and 37.9(3)]

Recording and reporting of expenses

Records of all third party political advertising expenses, including the time and place of broadcast or publication of advertisements to which the expenses relate, must be maintained and reported to Elections Ontario on the Interim Advertising Report and the Third Party Political Advertising Final Report.

At the request of Elections Ontario, a third party must provide the original of any bill, voucher or receipt in relation to a third party political advertising expense that is more than \$50.

Reporting on Third Party Political Advertising Interim Report (TPAR-Interim)

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

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

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a separate report being required each time its aggregate spending increases by an amount of at least \$1,000.

When it has reached the applicable spending limit, it must report that fact to Elections Ontario. [Act reference 37.10.2]

Third Party Political Advertising Final Report

This section explains the requirement for and filing of an advertising report for a registered third party, and the consequences for the failure to file.

Every registered third party must file a Third Party Political Advertising Final Report (TPAR-Final) within six (6) months of polling day. The accounting policies and procedures used for the Third Party Political Advertising Final Report are prescribed by Elections Ontario for compliance with the *Election Finances Act*. The Act also requires Elections Ontario to examine and review all Third Party Political Advertising Final Reports submitted. [Act reference 37.12(1)]

When is an audit required?

The Third Party Political Advertising Final Report of a third party that incurs \$5,000 or more in third party political advertising expenses shall include a report from the auditor.

The third party's auditor must report on the Third Party Political Advertising Final Report and must make any examination that will enable the auditor to give an opinion in the auditor's report as to whether the Third Party Political Advertising Final Report presents fairly the information contained in the accounting records on which it is based.

Content

The Third Party Political Advertising Final Report must include the following:

- third party information;
- certification of non-coordination by the third party (or its principal officer) and CFO of the information reported in the Third Party Political Advertising Final Report;
- signed auditor's report on the Third Party Political Advertising Final Report (if applicable);
- income and expense report;
- signed auditor's report on the supporting schedules of the political advertising report (if applicable); and
- supporting schedules for the following:
 - o operating loans,

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- o contributions accepted for third party political advertising purposes and contributions of over \$100 accepted for political advertising purposes,
- o political advertising expenses, and
- o certification regarding no coordination.

[Act references 37.12(2), 37.12(4) and 37.12(8)]

The supporting schedules are an integral part of the Third Party Political Advertising Final Report. It is important that each schedule agrees with the primary statement.

Refer to the Form Completion Guide for directions on how to complete this Third Party Political Advertising Final Report.

Requirement for Certification

Every third party, in its Third Party Political Advertising Final Report must certify that the 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.

Third Party Political Advertising Final Report format

A third party may keep computerized records of the information required by the statutory disclosure provisions and generate the statements from computers.

Computer-generated statements must contain all the required information in a format substantially similar to Elections Ontario's forms.

Accounting methods to be followed

The accounting methods set out below are prescribed by Elections Ontario for use in preparation of the Third Parties Political Advertising Report:

- Cash basis for contributions:
 - o Contributions are considered accepted when deposited and cleared through the bank.
- Accrual basis:
 - o The accrual basis of accounting must be used so that expenses are recorded when they are incurred.

- o The accrual basis of accounting takes into account:
 - expenses incurred but not paid or for which bills have not yet been received (accounts payable);
 - income on investments that has been earned but not yet received; and
 - contributions received in the mail after the end of the period in envelopes postmarked in the reporting period.
- Furniture and other equipment:
 - o Furniture, fixtures, printing equipment, etc. must be charged to expenses when purchased.

All figures contained in Third Party Political Advertising Final Reports may be rounded to the nearest dollar.

Communication with the auditor (if applicable)

If a third party spends over \$5,000 on third party political advertising, the auditor must report on whether the Third Party Political Advertising Final Report and supporting schedules fairly presents the information contained in the financial records. If this is the case, it is necessary that the CFO and auditor meet to discuss the audit and filing process.

It is recommended that the two meet before the period-end date to determine cut-off and closing procedures and to agree on a date when the auditor will be given access to all records, documents, books, accounts, and vouchers of the third party that may be necessary to issue the auditor's reports. [Act reference 37.13(4)]

Note that there is no audit subsidy available from Elections Ontario for the cost of the auditor's services.

Delivery of Third Party Political Advertising Final Report

Elections Ontario will accept Third Party Political Advertising Final Report by any delivery method so long as the filing is complete. Examples of accepted delivery methods include: mail, fax, email, or hand delivery.

Mailed Third Party Political Advertising Final Reports that are postmarked, or courier receipted on or before the filing date, will be accepted as 'on time' so long they are complete.

Retention of records

The financial records must be kept for a minimum of six (6) years, as recommended by the Canada Revenue Agency (CRA).

The financial records must be retained at the place where records are kept on file with Elections Ontario.

Administrative Penalties

This section explains penalties administered by the Chief Electoral Officer for certain contraventions of the Act.

The *Election Finances Act* was amended with the introduction of administrative monetary penalties on April 19, 2021. The payment of administrative penalties may be ordered by the Chief Electoral Officer for certain contraventions of the Act. [Act reference 45.1]

If an administrative penalty applies to any area covered by this handbook the maximum amount of the penalty, which is specified by the Act, will be shown.

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.

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.

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.

Applicable Administrative Penalties

The following administrative penalties are applicable to third parties conducting political advertising.

- **Failure to register as a third party (if applicable).**
Maximum penalty is \$10,000.
- **Failure to include a copy of the authorizing resolution (if applicable).**
Maximum penalty is \$10,000.
- **Failure to include authorization on political advertising.**
Maximum penalty is \$10,000 for individuals and \$100,000 for corporations or other entities.
- **Violation of the blackout period.**
Maximum penalty is \$10,000 for individuals and \$100,000 for corporations or other entities.

- **Publishing or broadcasting previously unpublicized election survey results.**
Maximum penalty is \$1,500 for individuals and \$5,000 for corporations or other entities.
- **Exceeding the applicable advertising spending limit.**
Maximum penalty is \$1,500 for individuals and \$5,000 for corporations or other entities.
- **Failure to file interim report.**
Maximum penalty is \$10,000 for individuals and \$100,000 for corporations or other entities.
- **Failure to file final report.**
Maximum penalty is \$1,500 for individuals and \$5,000 for corporations or other entities.
- **Failure to certify no coordination.**
Maximum penalty is \$10,000.