



A guide for: Municipal Returning Officers in Alberta

Module 3: Election finance and contribution disclosure

Module 4: Third-party advertising

Guide for Municipal Returning Officers in Alberta

Published by Alberta Municipal Affairs

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February 2021

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Module 3: Municipal Election Finance and Contribution Disclosure



Municipal Election Finance and Contribution Disclosure

Municipal finance and disclosure pertains to those candidates seeking election to municipal and school board offices.

Returning officers must review all definitions in the *Local Authorities Election Act* (LAEA), Part 5.1, Municipal Election Finance and Contribution Disclosure, to ensure they understand definitions and application.

LAEA s.147.1(1)(b)

Campaign Period

In the case of a general election, the campaign period means the period of time beginning January 1 and ending December 31 in the year of the general election.

In the case of a by-election, the campaign period refers to the time set by resolution to 60 days immediately following the by-election.

LAEA s.147.1(1)(a)

Allowable Election Expenses

A campaign expense means any expense incurred (including a non-monetary contribution received) by a candidate to the extent that the property or service is used to directly promote or oppose a candidate during a campaign period. The expense or non-monetary contribution includes:

- the production of advertising or promotional material;
- the distribution, broadcast or publication of advertising or promotional material in any media or by any other means during a campaign period, including by the use of a capital asset;
- the payment of remuneration and expenses to or on behalf of a person for the person's services as a chief financial officer or in any other capacity;
- securing a meeting place;
- the conduct of election surveys or other surveys or research during a campaign period; or
- the production of a review engagement required by the LAEA.

LAEA s.147.1(1)(c)
LAEA s.147.1(2)

What is a Contribution?

In Part 5.1, a contribution means any money, personal property, real property or service that is provided to, or for, the benefit of a candidate's election campaign without fair market value compensation from the candidate. This does not include a service provided by an individual who voluntarily performs the services and receives no compensation, directly or indirectly, in relation to the services or time spent providing the services.

The value of a contribution, other than money, provided to a candidate is the fair market value of the contribution at the time it was provided. If a non-monetary contribution is provided for a price that is less than fair market value, the amount by which the value exceeds the price is considered a contribution for the purposes of Part 5.1.

LAEA s.147.2

Limitations on Contributions

Only a person ordinarily residing in Alberta can make contributions to candidates. No individual residing outside of Alberta or prohibited organization may make a contribution to a candidate. Prohibited organizations include corporations and unincorporated organizations, including trade unions and employee organizations.

No individual residing in Alberta shall contribute in any campaign period an amount that exceeds \$5,000 to any candidate for election as a councillor and \$5,000 to any candidate for election as a school board trustee.

A candidate may contribute up to \$10,000 of the candidate's own funds that is not reimbursed to the candidate from the candidate's campaign account. Any amount paid by a candidate for campaign expenses from the candidate's own funds not reimbursed, is a contribution to the candidate's own campaign.

No candidate and no person acting on behalf of a candidate shall, directly or indirectly, solicit or accept a contribution if the candidate or person knows or ought to know that the prospective contributor is a prohibited organization or an individual residing outside Alberta.

No candidate or person acting on behalf of a candidate shall solicit or accept a contribution if the candidate or person knows or ought to know that the amount of the contribution will exceed the amounts referred to above.

LAEA s.147.13

Responsibility of Contributors

Before making a contribution, a prospective contributor is responsible for ensuring that they are not prohibited from making the contribution and are not making a contribution that is in excess of the limit prescribed by section 147.2(3).

Every candidate and every person acting on behalf of a candidate shall make every reasonable effort to advise prospective contributors of this Part relating to contributions.

LAEA s.147.82(1) and (2)

A prohibited organization or a person acting on its behalf that contravenes this section is guilty of an offence and is liable to a fine of not more than \$10,000.

An individual who contravenes this section is guilty of an offence and is liable to a fine of not more than \$5,000.

LAEA s.147.22

Acceptance of Contributions

Contributions cannot be accepted and expenses cannot be incurred unless the person has been nominated as a candidate.

A candidate cannot accept contributions except during a campaign period.

The provisions above do not apply to a person who accepts no more than \$5,000 in the aggregate per year in contributions outside the campaign period, or who contributes up to \$10,000 in the aggregate per year to their own campaign from their own funds.

LAEA s.147.82(3)

A candidate who contravenes section 147.22(1) or (2) is guilty of an offence and is liable to a fine of not more than \$1,000.

LAEA s.147.23

Anonymous and Unauthorized Contributions

Any anonymous contributions and any contribution or portion of a contribution made in contravention of the LAEA accepted by a candidate or a person acting on behalf of a candidate must not be used or expended.

The candidate or the person acting on behalf of the candidate shall:

- a) return the contribution to the contributor if the contributor's identity can be established, or
- b) if the contributor's identity cannot be established, pay an amount equivalent to the contribution to a registered charity or to the municipality for which the candidate is running for election.

LAEA s.147.82(4)

A candidate or a person acting on behalf of a candidate who fails to return or pay an amount referred to in section 147.23(a) or (b) is guilty of an offence and liable to a fine of not more than \$5,000.

LAEA s. 147.24

Contributions not belonging to Contributor

No individual shall contribute to a candidate:

- a) funds not belonging to that individual, or
- b) funds that have been given or furnished to the individual by another individual or a prohibited organization for the purpose of making a contribution of those funds to a candidate.

No candidate and no person acting on behalf of a candidate shall solicit or accept a contribution if the candidate or person knows or ought to know that the contribution is contrary to the above.

No individual and no prohibited organization shall give or furnish funds to another individual for the purpose of having that other individual make a contribution of those funds to a candidate.

LAEA s.147.82(5) and (6)

A prohibited organization or a person acting on its behalf that contravenes section 147.24 is guilty of an offence and liable to a fine of not more than \$10,000.

An individual who contravenes section 147.24 is guilty of an offence and liable to a fine of not more than \$5,000.

LAEA s.147.3

Duties of a Candidate

A candidate must ensure that:

- a campaign account in the name of the candidate's election campaign or of the candidate is open at a financial institution for the purposes of the election

campaign at the time of nomination or as soon as possible after contributions exceed \$1,000 in total;

- if a campaign account has been opened, all contributions of money are deposited into the campaign account;
- money in the account shall only be used for the payment of campaign expenses;
- contributions of real property, personal property and services are valued;
- receipts are issued for every contribution and obtained for every expense;
- records are kept of contributions and campaign expenses and are retained by the candidate for a period of three years following the date on which disclosure statements were required to be filed; and
- proper direction is provided to the candidate's official agent and any other person who is authorized to incur campaign expenses and to accept or solicit campaign contributions.

LAEA s.147.83

A candidate who contravenes section 147.3 is guilty of an offence and liable to a fine of not more than \$5,000.

LAEA s.147.31

Fund-raising Functions

Fund-raising function includes any social function held for the purpose of raising funds for the candidate's election campaign by whom or on whose behalf the function is held.

The gross income from any fund-raising function must be recorded by the candidate on whose behalf the function was held.

If a fund-raising function is held by the sale of tickets by or on behalf of a candidate, the amount of the contribution is to be determined at the option of the candidate from the two options noted below:

- a) if the individual charge
 - i. is \$50 or less; the amount is not considered a contribution unless the purchaser requests a contribution receipt. If a receipt is requested the contribution amount is 50 per cent of the ticket price.
 - ii. is \$50.01 to \$100.00; contribution receipt amount is the ticket price less \$25

iii. Over \$100.00; contribution receipt amount is 75 per cent of the ticket price.

b) The amount considered to be a contribution is the difference between the price of the ticket and the fair market value of what the purchaser receives.

The price paid at a fund-raising function in excess of the fair market value at that time for goods or services received is considered to be a contribution to the candidate's election campaign.

The table below shows examples of fund-raising events and how to determine the contribution portion of each ticket sold or admission charged.

Ticket Price	Contribution Portion (receipted)	Expense Portion (not receipted)	LAEA Section	Note
\$40	\$0	\$40	147.31(3)(a)(i)	No request for receipt from ticket buyer
\$40	\$20	\$20	147.31(3)(a)(i)	Ticket buyer requests a receipt
\$40	\$25	\$15	147.31(3)(b)	Expense portion determined to be \$15 (market value)
\$80	\$55	\$25	147.31(3)(a)(ii)	Expense portion deemed to be \$25
\$160	\$120	\$40	147.31(3)(a)(iii)	Expense portion deemed to be 25% of ticket price

If the fund-raising function uses some means of raising funds other than selling tickets, the price paid in excess of the market value for goods or services received is a contribution.

The gross income of a fund-raiser, minus the contribution portion determined by either clause (a) or (b) above, must be recorded as fund-raising function revenue on the financial statement or campaign return of the candidate. The candidate should keep a separate record of the event showing the date of the function, ticket/admission price, and the number of tickets sold or admission charged.

Only residents of Alberta can purchase a ticket or pay for admission for a fund-raising event. It is a violation of the LAEA if prohibited persons or entities purchase tickets, pay admission, or offer a reimbursement for the full ticket/admission price.

Silent Auctions

The following scenario is an example of how to report the revenue and contributions from silent auctions, often held alongside fund-raising events.

An individual donates a new tablet to a silent auction at a fund-raising function. The tablet, along with the donor's purchase receipt, is provided to the candidate. The candidate determines the fair market value of the tablet to be \$300, which is easily arrived at using the submitted receipt.

The candidate issues the donor of the tablet a "valued" contribution receipt for \$300.

The purchaser of the tablet (successful bidder), pays the bid amount, and

- if the successful bid was equal to or less than the fair market value, no contribution receipt is issued to the bidder, or
- if the successful bid was more than the fair market value, for example the bid was \$400, a \$100 "money" contribution receipt is issued to the purchaser.

LAEA s. 147.32

Receipts

Every candidate or person acting on behalf of the candidate shall issue a receipt for every contribution accepted in a form acceptable to the local jurisdiction. At a minimum, receipts should include the date of the contribution, name and address of the contributor, and the amount contributed.

LAEA s. 147.33

Loans

A candidate:

- a) may borrow money only from a financial institution, and

- b) shall record all loans and their terms and shall report accordingly to the relevant municipality.

Only an Alberta resident may make a payment on behalf of the borrower in respect of a loan. Any payment to a candidate's loan that is made by an Alberta resident becomes a contribution by that individual and the contribution is accepted by the borrower if the individual is not reimbursed by the borrower before the borrower is required to file a disclosure statement.

This section applies to the borrowing of money related to the candidate's election campaign.

LAEA s.147.34
LAEA s.147.91

Campaign Expense Limits

No candidate and no chief financial officer of a candidate shall incur campaign expenses that exceed, in the aggregate, the amounts determined by the regulations.

There is no regulation enacted determining campaign expense limits for the 2021 general election; therefore, there are no defined spending limits. This means candidates may spend any amount they raise in accordance with the defined contribution limits.

LAEA s.147.4

Campaign Disclosure Statements

Every candidate (including a candidate who withdraws) is required to file a disclosure statement (Form 26 – Campaign Disclosure Statement and Financial Statement – forms are available at Alberta.ca) with the municipality on or before March 1 immediately following the general election.

In the case of a by-election, the disclosure statement must be filed no later than 120 days after the date of the by-election.

The disclosure statement must include:

- the total amount of all campaign contributions received during the campaign period that did not exceed \$50 in the aggregate from any single contributor;
- the total amount contributed, together with, the contributor's name and address, for each contributor whose contributions during the campaign period exceeded \$50 in total;

- the total amount of contributions received outside of the campaign period (not exceeding contributions of \$5,000 in total per year, or candidate contributions of \$10,000 in the total per year);
- the total amount from fundraising functions;
- the total amount of other revenue;
- the total amount of campaign expenses;
- an itemized campaign expense report setting out the campaign expenses incurred by the candidate;
- the total amount of money paid by the candidate;
- the total amount of any surplus, including any surplus from previous campaigns; and
- the amount of any deficit.

A candidate who incurs campaign expenses or receives contributions of \$50,000 or more, shall file a review engagement with the disclosure statement. Review engagements are defined in the *Chartered Professional Accountants Act*.

A candidate who withdraws must also file a disclosure statement.

Within 30 days, a candidate must submit a supplementary statement in the prescribed form to the municipality if any of the information reported in the disclosure statement has changed or is inaccurate.

The municipality must ensure all documents filed are available to the public during regular business hours for four years after the election.

LAEA s.147.84(1.1)(a)

A candidate is guilty of an offence if they fail to submit the supplementary statement within 30 days and liable to a fine of not more than \$5,000. Failure to comply with the reporting requirements in Part 5.1 may also render an individual ineligible to be nominated as a candidate in future elections under section 22(1.2) of the LAEA.

LAEA s.147.84(1)

A candidate who fails to file the disclosure statement by April 1 in the year following a general election is guilty of an offence and liable to a fine of not more than \$5,000. In the case of a by-election, the disclosure statement must be filed within 150 days after the by-election.

LAEA s.147.84(2)

If a candidate is found guilty of contravening section 147.4, the court may, in addition to the penalty provided, order the candidate to pay any surplus to the local jurisdiction as soon as possible

LAEA s.147.5

Campaign Surplus

On or before March 1 following the general election (120 days in the case of a by-election), if the candidate's disclosure statement shows a surplus, the candidate, within 60 days:

- a) shall, with respect to any amount that is \$1,000 or more, donate an amount to a registered charity that results in the surplus being less than \$1,000, and
- b) may, with respect to any amount that is less than \$1,000,
 - i. retain all or any portion of that amount, and
 - ii. donate all or any portion that amount to a registered charity.

A candidate who donates an amount to a registered charity must within 30 days after the 60-day period provided above, file an amended disclosure statement showing the surplus has been dealt with.

This applies to a candidate whether or not they are elected.

LAEA s.147.84(1.1)(b)

A candidate is guilty of an offence if they fail to submit the supplementary statement within 30 days and liable to a fine of not more than \$5,000.

LAEA s.147.51

If, on September 1, 2020, a campaign surplus amount was held in trust, the candidate, no later than January 1, 2022:

- a) shall, with any amount \$1,000 or greater, donate an amount to a registered charity that results in the surplus being less than \$1,000, and
- b) may, with any amount less than \$1,000 retain all or any portion of that amount and donate all or any portion of that amount to a registered charity.

A registered charity is defined under section 1(t.4) of the LAEA and means a registered charity within the meaning of subsection 248(1) of the *Income Tax Act* (Canada).

If a municipality does not receive direction on or before January 1, 2022, the money becomes the property of the local jurisdiction.

This section applies to money paid to a municipality pursuant to a court under section 147.84(2).

LAEA s.147.52

Campaign Deficit

If a candidate's disclosure statement shows a deficit, the candidate shall eliminate the deficit within 60 days after filing the disclosure statement with the municipality. For the purposes of eliminating a deficit, a candidate may accept contributions within the 60-day period.

A candidate shall not accept a contribution that exceeds \$5,000 from any individual and may make a contribution from the candidate's own funds that does not exceed \$10,000 for the purpose of eliminating a deficit.

A candidate must, within 30 days after the expiration of the 60-day period, file an amended disclosure statement showing the deficit has been eliminated.

LAEA s.147.84(1.1)(c)

A candidate is guilty of an offence if they fail to submit the supplementary statement within 30 days and liable to a fine of not more than \$5,000.

LAEA s.147.7

Late Filing

A candidate who fails to file a campaign disclosure statement within the specified time period is required to pay a \$500 late filing fee to the municipality. If the fee is not paid within 30 days, the municipality must send a notice to the candidate indicating the amount of the late filing fee to be paid.

If a candidate fails to file a disclosure statement, the secretary shall transmit a report to council and upon receipt, the report must be made public. If a candidate files their disclosure statement no later than 10 days after the filing deadline, the candidate is not required to form part of the report proceeding to council. In the case of a school board trustees, the secretary of the school board shall transmit a report to the school board.

If a candidate, who is sent a notice by the municipality, fails to pay the late filing fee, the municipality may file a notice with the Court of Queen's Bench.

LAEA s.147.8

A candidate may within the 60-day period following the date the report is made public, apply to the Court for relief.

LAEA s.147.81

Prosecution

A prosecution under Part 5.1 may be commenced within three years of the commission of the alleged offence but not afterwards.

LAEA s.147.93 – 147.96

Transitional Provisions

The transitional provisions at the end of Part 5.1 address contributions made to candidates during the time period between January 1, 2018 and when Bill 23, *An Act to Renew Local Democracy in Alberta* received first reading on November 5, 2018, and also when it received Royal Assent on December 11, 2018. If candidates are uncertain of how contributions received in these transitional periods were impacted by Bill 23, they should seek independent legal advice to ensure they did not contravene any provisions relating to contributions during these time periods and they remain eligible to become a candidate in the 2021 general election.

Module 3 Addendum: Role of the Election Commissioner: Part 5.1

The following information has been provided by Elections Alberta, regarding the role of the Election Commissioner in the 2021 Municipal Elections and by-elections. Additional information is also available online at: <https://www.elections.ab.ca/investigations/>.

Role of the Election Commissioner: Part 5.1

The Election Commissioner is a role contained within the Office of the Chief Electoral Officer (Elections Alberta). The Election Commissioner is responsible for the investigation of complaints regarding non-compliance with Part 5.1 of the LAEA. This Part applies to both candidates seeking election to municipal and school board offices in either a by-election or general election. Additional information on the role of the Election Commissioner is provided in Module 2 Addendum: Role of the Election Commissioner.

Returning officers with knowledge of a potential non-compliance with Part 5.1 are obligated to report the alleged contravention to the Election Commissioner.

LAEA s.191

Role of the Election Commissioner (Elections Alberta)

The Election Commissioner's role in local authority elections is only an investigatory role. The Election Commissioner is **NOT** responsible for:

- The registration or nomination of candidates;
- Maintenance of registration records;
- Acceptance or review of financial filings;
- Providing advice to candidates; or
- Administering the late filing fee required under s. 147.7.

These roles belong to the municipality. It is important that returning officers employ good record keeping practices, as records will be requested should an investigation take place.

LAEA s.147.7

Late Filing

Candidates that fail to file their disclosure statement by March 1, 2022 for the 2021 municipal elections or within 120 days after a by-election must pay a \$500 late filing fee to the municipality. This fee is both assessed and received in the municipality.

Candidate late filing matters can be referred to Elections Alberta if they remain unresolved after April 1, in the year following a General Election, or after 150 days after polling day for a by-election.

Report/s to council for further action such as disqualification, if filing remains incomplete, is the responsibility of the secretary of the Local Authority.

Referral of Complaints

Complaints may be submitted to the Election Commissioner by:

- By Mail

Send your complaint and all relevant documents and materials to:

Elections Alberta
Compliance and Enforcement Unit
100, 11510 Kingsway NW
Edmonton, AB
T5G 2Y5

- By Email: complaints@elections.ab.ca
- By Phone: 780.644.1250 (toll free 310-0000 then 780.644.1250)
- Online: <https://www.elections.ab.ca/investigations/complaints/>

Local Authorities may wish to provide information about the role of the Election Commissioner on their website. Draft content is provided on the next page:

Sample website content

The Election Commissioner has the authority to investigate violations, or potential violations, of Part 5.1 and Part 8 of the *Local Authorities Election Act* (LAEA) as well as potential breaches of the Alberta Senate Election Act (ASEA). Complaints in relation to Parts 5.1 or Part 8 of the LAEA, or any complaint in relation to the ASEA, should be directed to their attention. The LAEA requires a local jurisdiction, a returning officer or the Registrar to refer any complaint or allegation, or any act or omission that may constitute a violation of Part 5.1 or Part 8 of the LAEA, to the Election Commissioner within a reasonable time period.

Submitting a Complaint

You will be asked to provide:

- Your name, address, telephone number, and e-mail address.
- A factual description of matters related to your complaint including events, dates, individual(s) involved, circumstances, and the action or inaction that you believe may be an offence.
- Copies of any documents that you believe are relevant.

A complaint can be submitted:

- In person, by mail, email, phone or by using the Elections Alberta online complaint form (preferred).

The Elections Alberta website can be found at: elections.ab.ca

Any other complaints, in relation to the LAEA, should be directed to the local authority in which the violation, or potential violation, occurred.

Module 4: Third Party Advertising



Third Party Advertising

The *Local Authority Elections Act* (LAEA) now includes provisions regarding third party advertising. Returning officers should review all of Part 8 to ensure they understand the roles and responsibilities of third party advertisers.

What is Third Party Advertising?

Third party advertising is a way for those outside of the candidate's campaign to express support of or opposition to candidates (or to the vote on a question or bylaw) and to try to persuade voters to vote a certain way. The term "third party" in this context is an individual, corporation or group but does not include a candidate. A group can include an unincorporated group of individuals or corporations acting together for a common purpose and includes a trade union and an employee organization, or any combination of individuals, corporations, trade unions or employee organizations.

Third party advertising is separate from any candidate's campaign, and must be done independently from a candidate. Any advertisements or materials that are made and distributed by a candidate or under a candidate's direction are part of the candidate's campaign.

LAEA s.162(1)(d)

Election Advertising

Election advertising includes any transmission to the public by any means of an advertising message during an election advertising period that promotes or opposes the election of a candidate or the vote on a question or bylaw. It also includes canvassing for the benefit of a candidate and organizing events where the purpose of the event is to promote or oppose a candidate.

Election advertising does not include:

- the transmission of any editorial, debate, speech, interview, column, letter, commentary or news;

- the distribution of a book, 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;
- the transmission of a document or the communication directly by a corporation or a group to its members, employees or shareholders;
- the transmission by an individual, corporation, group, on a non-commercial basis on the Internet, of the political view of that individual, corporation, group;
- the making of telephone calls to electors only to encourage them to vote;
- advertising by the local jurisdiction in any form; or
- the transmission to the public that is not a local jurisdiction for which the advertising message was intended and in which there is no candidate and no vote on a question or bylaw to which the transmission relates to.

LAEA s.162(1)(e)

When do the rules apply?

The election advertising period commences May 1 in the year of the general election and runs until the end of election day. For the 2021 general election, the advertising period begins on May 1, 2021 and ends on October 18, 2021.

In the case of a by-election, the period commences on the date the by-election is set by resolution and ends on election day. For a vote on a question or bylaw, the period begins on the date the election is set by bylaw or resolution and ends at the end of election day.

Registration of a Third Party

LAEA s.163(1)

An eligible third party must apply for registration in a local jurisdiction when advertising expenses have been incurred (or intend to be incurred) of at least \$1,000, or when the third party has accepted advertising contributions (or intends to accept) of at least \$1,000.

Local jurisdictions must receive applications for registration of third parties in the prescribed form (Form 27 – Registration of a Third Party available at Alberta.ca) which includes:

- the name and contact information of the individual, corporation (and the officer with signing authority), or group (including the principal officers/members);
- the address and telephone number of the place(s) in Alberta where the records of the third party are maintained and the place in Alberta to which communications may be addressed;
- the name and contact information of the chief financial officer responsible for the advertising account of the third party (every third party is required to appoint a chief financial officer under section 178(2));
- the name and address of the financial institution to be used by the third party for its advertising account;
- the names of the signing authorities for the advertising account; and
- any additional information required by the local jurisdiction concerning an advertising account.

If the third party has a governing body, the application must include a copy of the resolution passed by the governing body authorizing the third party to incur election advertising expenses.

As soon as possible after receiving an application from a third party, the local jurisdiction must:

- determine whether the requirements set out in section 163 are met,
- notify the individuals who signed the application whether the applicant is accepted for registration, and
- in the case of a refusal to register, give reasons for the refusal.

LAEA s.162.1

Registration with the Provincial Registrar

A Registrar for third party advertising has been appointed for third party advertising by the Minister of Municipal Affairs.

LAEA s.163(1)

A third party may apply to the Registrar when it is registered with more than 10 local jurisdictions. Any registrations with the local jurisdictions are cancelled once the third party registers with the Provincial Registrar who is then required to maintain the provincial register and meet the legislated requirements under Part 8.

Third parties interested in engaging in election advertising in more than 10 local jurisdictions can be directed to the appointed Provincial Registrar at:

Executive Director
Municipal Capacity and Sustainability Branch
Municipal Affairs
17th Floor, Commerce Place
10155 - 102 Street
Edmonton, AB T5J 4L4

Phone: 780-427-2225 (dial 310-000 first for toll-free)

Email: ma.lgsmail@gov.ab.ca

LAEA s.163(8)

When there is any change in the information required to be provided by a registered third party, they must notify the local jurisdiction (or Provincial Registrar, if applicable) in writing within 30 days and upon receipt of the notice, the local jurisdiction (or Provincial Registrar, if applicable) must update the register accordingly. Providing written notification by fax or email is acceptable.

LAEA s.163(6)

Who cannot be a Third Party Advertiser?

In addition to a candidate running for office, the following are not eligible to be registered as a third party advertiser:

- a corporation that does not carry on business in Alberta;
- an individual who is not ordinarily resident in Alberta;
- a trade union or employee organization that is not an Alberta trade union or Alberta employee organization;
- a group where any member of the group is ineligible per the clauses above;
- a registered charity; and
- a prohibited corporation (as defined in the *Election Finances and Contributions Disclosure Act*).

LAEA s.163(5) and (5.1)

If a third party wishes to register under a name that nearly resembles the name or abbreviation of the name or a nickname of a candidate that is active anywhere in that local jurisdiction (or Provincial Registrar, if applicable), so that confusion is likely in

the opinion of the local jurisdiction (or Provincial Registrar, if applicable), the application can be denied.

In addition, a local jurisdiction (or Provincial Registrar, if applicable) shall not register a third party if the proposed name was the name of a registered third party whose registration was cancelled or whose name was changed since the last election.

LAEA s.164

Cancellation of Registration

A registration may be cancelled upon a third party's written application to the local jurisdiction (or Provincial Registrar, if applicable), or if a chief financial officer of a third party fails to file an election advertising return under section 182 or to report about advertising contributions received during the election advertising period according to section 180.

If the registration of a third party is cancelled, and advertising contributions had been received and election advertising costs incurred, the required disclosures must still be filed. All the funds in the election advertising account must be dealt with according to section 183 (see Disposition of Advertising Account Funds section below).

Third Party Election Advertising Expenses

A third party election advertising expense is defined as an expense incurred in relation to the production of an election advertising message in the format in which the message is to be transmitted and the acquisition of the means of transmission to the public of an election advertising message. For example, a flyer promoting a candidate may have costs associated with its graphic design and printing, as well as costs associated with its mailing.

LAEA s.178

Every third party must appoint a chief financial officer who must then authorize every election advertising expense paid from the third party's advertising account. All election advertising expenses paid for by a third party from its advertising account must be recorded in its advertising report as part of its election advertising return.

LAEA s.165

Limits on Election Advertising Expenses

The LAEA allows for the establishment of a regulation that sets out the amount of money that may be spent by registered third party advertisers on election advertising during the election advertising period. There is no regulation in place for the purpose

of the 2021 municipal election; therefore, spending on election advertising is not restricted.

LAEA s.167(4)

If a third party is not eligible to be registered under section 163, they must not incur election advertising expenses in a total amount of \$1,000 or more.

Third Party Election Advertising Contributions

LAEA s.162(1)(b)

In Part 8, advertising contributions include money provided to or for the benefit of a third party, or real property, goods or services, or the use of real property, goods or services provided to or for the benefit of a third party without compensation from that third party, for the purpose of election advertising.

Some common examples of real property, goods or services, or the use of real property, goods or services, are a computer or furniture, signage or pamphlets, the use of a venue to hold a meeting or to use as an office, and telephone canvassing.

LAEA s.162(2)

For the purposes of this definition, services include those provided by an individual who is self-employed if the services are normally charged for by that individual, but do not include:

- volunteer labour provided by an individual, so long as that individual does not receive from that individual's employer or any person, compensation or paid time off to volunteer;
- professional services provided free of charge for work relating to compliance with this Act;
- services provided free of charge by an individual acting as the chief financial officer of the recipient of the services for work relating to compliance with this Act; or
- services a third party provides in support of its own campaign.

LAEA s.167

Any individual, corporation, trade union, or employee organization cannot make an advertising contribution to a third party unless the third party is registered (unless the third party is not required to be registered).

The following cannot make an election advertising contribution:

- an individual ordinarily resident outside of Alberta;

- a prohibited corporation (as defined in the *Election Finances and Contributions Disclosure Act*);
- a trade union or employee organization that is not an Alberta-based trade union or employee organization;
- a registered charity; or
- a group of which any member of the group is ordinarily outside of Alberta, a prohibited corporation, a trade union or employee organization (unless an Alberta based union or organization).

If a third party knows or ought to know that an election advertising contribution is going to be made by an entity listed above, they shall not accept it, directly or indirectly.

LAEA s.173

Advertising Contributions less than \$50

When money is given at a meeting held for a third party advertiser, in response to a general collection of money solicited from the persons in attendance at the meeting, individual amounts given of \$50 or less are not considered a contribution, but the aggregate gross amount collected shall be recorded.

LAEA s. 175

Anonymous and Unauthorized Contributions

An anonymous contribution in excess of \$50 shall not be used or expended by the registered third party and must be returned to the contributor. If the identity of the contributor cannot be established, the amount must be paid to the general revenue of the local jurisdiction (or Provincial Registrar, if applicable).

If a chief financial officer of a third party unknowingly accepts election advertising contributions from a non-eligible donor, they must notify the local jurisdiction (or Provincial Registrar, if applicable) in writing and return the contribution within 30 days after learning of the contravention. If the contributor's identity cannot be established, an amount equivalent to the advertising contribution must be paid to the general revenue of the local jurisdiction in which the third party is registered. Any amounts received by the Registrar must be paid into the General Revenue Fund.

LAEA s.176

Contributions Not Belonging to the Contributor

No contributor shall contribute to any third party that is registered, or is required to be registered, if the funds being contributed do not belong to the contributor, or were given or furnished to the contributor by a person, group, corporation, trade union, or employee organization for the purpose of making an election advertising contribution.

The chief financial officer is required to advise the local jurisdiction (or Provincial Registrar, if applicable) in writing of the fact and circumstances if they become aware of the acceptance of a contribution not belonging to an individual, corporation, trade union or employee organization, or if funds have been furnished. The chief financial officer must return the contribution according to the directions of the local jurisdiction (or Provincial Registrar, if applicable).

LAEA s.174

Loans

A third party advertiser may borrow money only from a financial institution. The details of the loan must be recorded by the chief financial officer and shall be reported accordingly to the local jurisdiction.

Loan payments made by others on behalf of third parties are considered contributions. All contribution restrictions apply. A contribution receipt must be issued unless the third party repays the full amount of the loan payments made on its behalf prior to the filing of the applicable advertising report or return next required to be filed pursuant to section 182.

LAEA s.177

Receipts

A third party is required to issue receipts for every advertising contribution accepted by the third party in the form and manner approved by the local jurisdiction in which it is registered (or Provincial Registrar, if applicable). At a minimum, receipts should include the date of the contribution, name and address of the contributor, and the amount contributed.

LAEA s.171

Valuing Contributions Other Than Money

Third party advertising contributions other than money must be valued at the market value of the contribution at the time they are made. If any real property, goods or

services or the use of same are provided to a third party for a price that is less than the market value at the time, the amount by which the value exceeds the price is considered an advertising contribution.

LAEA s.172

Fund-raising Functions

The provisions for fund-raising functions held by or on behalf of a registered third party are much the same as for the provisions in Part 5.1 – Election Finances and Contributions Disclosure. The chief financial officer of the third party that held the function or on whose behalf the function was held must record the gross income from any fund-raising function.

Refer to the section in Module 3 for a description of how the amount of the advertising contribution is determined if a fund-raising function is held by the sale of tickets by or on behalf of a third party.

LAEA s.169

Deposits

All money contributions accepted by or on behalf of a registered third party, and any contribution other than money that is converted into money, must be paid into the election advertising account on record with the local jurisdiction. The advertising account must be used for all payments of election advertising expenses and all transfers to other third parties.

LAEA s.167(2.1)

Limit on Third Party Advertising Contributions

No individual, corporation, trade union or employee organization shall make advertising contributions to any third party during an election advertising period that exceed, in the aggregate, \$30,000. In other words, a given donor will be able to provide no more than \$30,000 in total per election advertising period.

Any money paid by a third party from its own funds for election advertising is considered an advertising contribution of the third party.

LAEA s.166

Collusion

Collusion between third parties and candidates to circumvent or attempt to circumvent expense and contribution limits set out in Part 5.1 (Election Finances and Contributions Disclosure) or Part 8 (Third Party Advertising) is prohibited.

Identification of Third Parties

A third party, or a person acting on their behalf, must ensure that election advertising that is sponsored by a third party complies with the following:

- the advertising must include the name and contact information of the third party, and the authorization of the third party;
- if the advertising is broadcast through electronic media, the name and contact information must be stated at the beginning of the advertisement;
- in the case of a telephone advertisement (whether live or automated):
 - the telephone number of the third party must be capable of being displayed;
 - the name of the third party must be stated at the beginning of the advertisement;
 - it must be stated whether the advertisement has been authorized by the third party; and
 - the telephone number where the third party may be contacted must be included at the end of the advertisement.

The Minister is required to establish guidelines respecting identification of third parties. Returning officers are encouraged to review these guidelines and make them available to third parties. Third party guidelines are available on Alberta.ca.

Disclosures of Third Party Advertisers

Disclosures of Contributions for Election Advertising

Every third party who engages in election advertising is required to file a report regarding advertising contributions received during the election advertising period in the prescribed form (Form 28 – Third Party Advertising Contribution Statement – available on Alberta.ca). This report must be filed with the local jurisdiction or Provincial Registrar by March 1 following a general election or, in the case of a by-election or a vote on a question or bylaw, within 120 days. It must set out:

- the total amount of all advertising contributions received that did not exceed \$250 in total from any single donor; and
- for each contributor who made advertising contributions during the election advertising period totaling more than \$250, the total amount contributed along with the name and address of the contributor, and the amount and date of each contribution.

LAEA s.182

Third Party Election Advertising Return

By March 1 following a general election or, in the case of a by-election or a vote on a question or bylaw, within 120 days, registered third parties must also file an election advertising return, which includes:

- a financial statement;
- a list of all advertising contributions received during the election advertising period;
 - (this list must set out, for each contributor who made election advertising contributions totaling more than \$250, the contributor's name and address and the amount and date of each advertising contribution)
- an election advertising spending limit report referred to in section 165(4);
- the time and place of broadcast or publication of the advertisements to which the election advertising expenses relate; and
- any supporting information and documents relating to the election advertising return.

Even if a registered third party has not incurred election advertising expenses, the return still must be completed to that effect. A local jurisdiction (or Provincial Registrar, if applicable) may request a chief financial officer to provide the original of any bill, voucher or receipt for an election advertising expense of more than \$50.

Since the LAEA is silent on the public disclosure of the advertising report and return, local jurisdictions may wish to consider developing a policy to address the means by which the required documents are made public.

LAEA s.183

Disposition of Advertising Account Funds

Any surplus funds held by a registered third party in its election advertising account at the end of an election advertising period must be held in the advertising account to be expended for election advertising during a subsequent election advertising period.

If a registered third party decides not to expend the funds for election advertising during the next election advertising period, or does not engage in election advertising during the next election advertising period, the third party must deal with the surplus within six months in one or more of the following ways:

- transfer the surplus to the election advertising accounts of other third parties in accordance with section 178,
- donate the funds to a registered charity,
- return the surplus to the third party's contributors if they can be identified, or
- if any portion of it cannot be dealt with in any of the ways listed above, pay that portion to the party with whom they have registered.

A registered third must advise the local jurisdiction (or Provincial Registrar, if applicable) of its decision(s) regarding the funds and apply to the local jurisdiction to cancel its registration under section 164. The chief financial officer must file an Election Advertising Report on or before March 31 of each year until all funds have been disposed of completely.

LAEA s.184

Late Filing

Failure to file a report and return with the local jurisdiction (or Provincial Registrar, if applicable) by the filing deadline will result in an automatic \$500 late filing fee. If the fee is not paid within 30 days, the local jurisdiction (or Provincial Registrar, if applicable) must send a notice to the third party indicating the amount of the late filing fee to be paid.

If a third party who is sent a notice fails to pay the late filing fee, the local jurisdiction (or Provincial Registrar, if applicable) may file a notice with the Court of Queen's Bench.

If a third party fails to file a report and return, the local jurisdiction (or Provincial Registrar, if applicable) may cancel the third party registration. The local jurisdiction (or Provincial Registrar, if applicable) cannot cancel the registration if a third party files a report and return no later than 30 days after the filing deadline.

Module 4 Addendum: Role of the Election Commissioner: Part 8

The following information has been provided by Elections Alberta, regarding the role of the Election Commissioner in the 2021 Municipal Elections and by-elections. Additional information is also available online at: <https://www.elections.ab.ca/investigations/>.

Role of the Election Commissioner: Part 8

The Election Commissioner is a role contained within the Office of the Chief Electoral Officer (Elections Alberta). The Election Commissioner is responsible for the investigation of complaints regarding non-compliance with Part 8 of the LAEA. Additional information on the role of the Election Commissioner is provided in Module 2 Addendum: Role of the Election Commissioner.

Returning officers with knowledge of a potential non-compliance with Part 8 are obligated to report the alleged contravention to the Election Commissioner.

LAEA s.191

Role of the Election Commissioner (Elections Alberta)

The Election Commissioner's role in local authority elections is only an investigatory role. The Election Commissioner is **NOT** responsible for:

- The registration of third parties;
- Maintenance of registration records;
- Acceptance or review of financial filings;
- Providing advice to third parties; or
- Administering the late filing fee required under s. 184.

These roles belong to the municipality (and Municipal Affairs for the registration of third parties who are active in more than 10 local jurisdictions). It is important that returning officers employ good record keeping practices, as records will be requested should an investigation take place.

LAEA s. 163(1)

Failure to Register

Third parties must register with a Local Authority if the \$1,000 contribution or expense provisions are met and/or exceeded. Failure to register matters can be forwarded to Elections Alberta.

Late Filing

Third parties that fail to file their disclosure statement by March 1, 2022 for the 2021 municipal elections or within 120 days after a by-election must pay a \$500 late filing fee to the municipality. This fee is both assessed and received in the municipality.

TPA late filing matters can be referred to Elections Alberta immediately (March 1 in year following General Election) or in the case of a by-election, after 120 days after polling day. There is no 30 day “grace” period to file.

If a TPA fails to file by April 1 in the year following a General Election, or within 150 days of a by-election, they may have their registration cancelled. This is the responsibility of the local authority, not Elections Alberta.

Referral of Complaints

Complaints may be submitted to the Election Commissioner by:

- By Mail

Send your complaint and all relevant documents and materials to:

Elections Alberta
Compliance and Enforcement Unit
100, 11510 Kingsway NW
Edmonton, AB
T5G 2Y5

- By Email: complaints@elections.ab.ca
- By Phone: 780.644.1250 (toll free 310-0000 then 780.644.1250)
- Online: <https://www.elections.ab.ca/investigations/complaints/>

Local Authorities may wish to provide information about the role of the Election Commissioner on their website. Draft content is provided on the next page:

Sample website content

The Election Commissioner has the authority to investigate violations, or potential violations, of Part 5.1 and Part 8 of the *Local Authorities Election Act* (LAEA) as well as potential breaches of the Alberta Senate Election Act (ASEA). Complaints in relation to Parts 5.1 or Part 8 of the LAEA, or any complaint in relation to the ASEA, should be directed to their attention. The LAEA requires a local jurisdiction, a returning officer or the Registrar to refer any complaint or allegation, or any act or omission that may constitute a violation of Part 5.1 or Part 8 of the LAEA, to the Election Commissioner within a reasonable time period.

Submitting a Complaint

You will be asked to provide:

- Your name, address, telephone number, and e-mail address.
- A factual description of matters related to your complaint including events, dates, individual(s) involved, circumstances, and the action or inaction that you believe may be an offence.
- Copies of any documents that you believe are relevant.

A complaint can be submitted:

- In person, by mail, email, phone or by using the Elections Alberta online complaint form (preferred).

The Elections Alberta website can be found at: elections.ab.ca

Any other complaints, in relation to the LAEA, should be directed to the local authority in which the violation, or potential violation, occurred.