



Written Opinions, Guidelines and Interpretation Notes

Guideline: 2021-04

Political Financing Handbook for Candidates and Official Agents

Comments made during consultation period of May 28 to July 12, 2021

Comments received from the Liberal Party of Canada	Elections Canada response to the Liberal Party of Canada
<p>General Comments None</p> <p>Specific Comments We provide the following specific points for consideration:</p> <ol style="list-style-type: none"> On page 14 of the tracked changes version of the draft OGI, in the section “Open bank account,” the term “non-campaign funds” is first used, and again on page 21 in the reminder table section “Before election day,” without further definition or reference. The concept of non-campaign funds is more broadly discussed in the chapters pertaining to a candidate’s personal expenses and litigation expenses. If the term non-campaign funds is going to be used at the beginning of the Handbook, then either an early definition or cross-reference to the relevant chapters would be helpful. 	<p>The text has been modified in both sections to clarify that “non-campaign funds” are those used by a person or group to directly pay the candidate’s litigation and personal expenses (within certain limits). A cross-reference to the chapters on personal and litigation expenses has also been added in the “Open the bank account” section.</p>
<ol style="list-style-type: none"> On page 52, in the section “Fundraising expenses,” a new note has been added regarding promotional expenses for an EDA activity during the writ period. Perhaps the note can be expanded by suggesting the EDA should invoice the candidate’s campaign for the promotional costs as well as by stating the benefit of the EDA involvement now being a monetary cost to the campaign. 	<p>As suggested, the note has been expanded to explain that the association can either invoice the campaign for the promotional expenses or provide a non-monetary transfer.</p>

<p>3. On page 91, in the section “What are not the candidate’s travel and living expenses?,” a new example #2 has been added discussing the split of a bus rental and allocating a portion of the cost as a candidate’s cost. It is not clear whether this new example now requires the mandatory splitting of common transportation costs or whether this is an option that might be used by a campaign that is close to the campaign spending limit. We are concerned that splitting the costs is an additional burden on official agents, and one that is subject to varying estimates and assumptions. Specifically, in the new example #2, gasoline for the rental car’s travel presumably was not factored into the example.</p>	<p>The example has been modified to show that, in such a scenario, a campaign has the option to report the full amount as an election expense rather than calculating a portion to report as the candidate’s travel and living expense.</p>
<p>4. On page 103, in the section “What are ‘other’ electoral campaign expenses?,” a note has been added to example #1 with respect to an EDA renting an office pre-writ. We have some conceptual challenges with this point-of-view change, which appeared to come about during the review/audit of the 2019 candidate returns. Firstly, it can be argued that the multi-year non-election-period non-fundraising activities and expenses of an EDA are undertaken to better the opportunities for their candidate. It seems odd political financing staff are focusing only on office rental pre-writ costs. Secondly, the section “Starting the candidate’s campaign – Appoint official agent and auditor” on page 14 states the candidate must appoint an official agent before incurring an electoral campaign expense. With the proposed addition of the note, it appears Elections Canada is now suggesting that a candidate’s campaign can incur campaign expenses prior to an official agent having been appointed if the EDA has rented an office. Why limit this only to rental accommodations? Finally, some EDAs may undertake campaign preparatory work well before a candidate is nominated, which might include renting an office. We believe the addition of the new note is misguided.</p>	<p>Elections Canada recognizes that, outside election periods, associations operate with the intention to better their candidate’s opportunities at election time. For the most part, the related expenses are the association’s own expenses, even if they benefit the candidate.</p> <p>We have modified the handbook to state that the candidate’s campaign must report all of the rent as its own expense “either from the date agreed on for the campaign to start using the office or from the date it starts using the office (whichever is earlier).” The rental cost before this point is the association’s expense.</p>
<p>5. On page 117, in the section “Submitting reports to Elections Canada,” the chart in the “Online” section states “Sign the pages requiring signature and scan the report.” It should be modified to read “Hand sign the pages requiring signature and scan the report.”</p>	<p>The section has been updated to specify that documents must be signed by hand, other than a campaign return that is signed using digital consent in the Political Entities Service Centre.</p>

<p>6. On page 119, in the new section “Submitting an extension request to a judge,” it would be helpful if the relevant court website links were also added. For example, the link for the Superior Court of Justice of Ontario would be http://ontariocourtforms.on.ca/en/rules-of-civil-procedure-forms/. Additionally, the added note of contacting the court registrar may not be ideal as registrars can be difficult to reach, and the use of legal clinics may not be appropriate as they tend to provide services to those with lower incomes and they are unlikely to have familiarity with legal precedents pertaining to <i>Canada Elections Act</i> extensions.</p>	<p>Elections Canada does not include links to external websites in its political financing handbooks since the links may become obsolete without warning and are difficult to update once a document is published.</p> <p>We note your observations about difficulties with accessing services through court registrars and legal clinics. However, these resources are the best we can recommend to political entities that cannot or do not wish to access private legal services.</p>
<p>7. In chapter 18, “Managing Unpaid Claims and Loans,” in the references made to filing an updated <i>Candidate’s Electoral Campaign Return</i> within 30 days, it would be beneficial to add that for a candidate who has become an MP, failure to file the return within 30 days could prevent an MP from sitting and voting in the House of Commons.</p>	<p>As failing to file an updated return after paying a claim is only one filing irregularity that could lead to an MP being unable to sit or vote in the House of Commons, the suggested content has not been added in the unpaid claims chapter. The following note appears in the reporting chapter: “If an elected candidate does not meet certain filing requirements, a possible consequence is that they will be unable to continue to sit or vote in the House of Commons until the documents are submitted or an extension is granted.”</p>
<p>Comments received from the Commissioner of Canada Elections</p>	<p>Elections Canada response to the Commissioner of Canada Elections</p>
<p>In general, the Commissioner of Canada Elections (Commissioner) agrees with the content of the Manual as proposed. However, for the sake of further clarification, the Commissioner would recommend that the following change be made:</p> <p>1. On page 117, in the box, under “Campaign return” and after the note indicating that “Other forms of electronic submission may not be accepted”, it would be useful to clarify that for all campaign returns that are submitted without using the Political Entities Service Centre, a handwritten signature is required and an electronic signature will not be accepted.</p>	<p>The section has been updated to specify that documents must be signed by hand, other than a campaign return that is filed using digital consent in the Political Entities Service Centre.</p>

The following parties did not submit comments to Elections Canada regarding OGI 2021-04:

- Animal Protection Party of Canada
- Bloc Québécois
- Canada's Fourth Front
- Canadian Nationalist Party
- Christian Heritage Party of Canada
- Communist Party of Canada
- Conservative Party of Canada
- Free Party Canada
- Green Party of Canada
- Libertarian Party of Canada
- Marijuana Party
- Marxist-Leninist Party of Canada
- National Citizens Alliance of Canada
- New Democratic Party
- Parti pour l'Indépendance du Québec
- People's Party of Canada
- Parti Rhinocéros Party
- Veterans Coalition Party of Canada