



Elections Ontario



June 19, 2017

Election Finances Bulletin #2 – June 2017

Nomination Contests and Nomination Contestants

As announced in our **Bulletin #1, “Changes to the *Election Finances Act*”**, sent to you on December 23, 2016, Elections Ontario will be regulating the activities of nomination contestants starting on July 1, 2017. Nomination Contestants will be required to register under the Act and report on their activities.

This bulletin serves as a guideline for registered political parties and registered constituency associations that propose to hold a nomination contest on or after July 1, 2017. These guidelines describe the general approach of the Chief Electoral Officer to matters relating to nomination contests and nomination contestants under the *Election Finances Act* and is not intended to replace the Act. The *Election Finances Act* can be found at: <https://www.ontario.ca/laws/statute/90e07>.

This bulletin addresses the nomination process with topics such as:

- Contest Notification
- Nomination contestant registration
- Financial Activities of a registered nomination contestant
- Nomination Contestant’s Registration end date
- Reporting Requirements

Under the Act, a nomination contestant is a person seeking endorsement as an official party candidate in an electoral district. Only a registered party or a registered constituency association can hold a nomination contest. A nomination contest period is the period that begins when the contestant first receives or spends funds for the purpose of being endorsed as the party’s candidate in an electoral district and ends when the candidate is selected.

The registered entity holding the nomination contest needs to inform Elections Ontario of the date of the official call of the nomination contest and of the date fixed for the vote. This is done by filing a Notice of Nomination Contest Form NC-2. Nomination Contestants register by completing and filing a Nomination Contestant Registration and Change Notice Form NC-1.

Some of the questions about how the nomination contest process works are addressed in this bulletin. If you do not find the answers to your questions here please refer to the Act or contact us directly at electfin@elections.on.ca.

As nomination contests are not regulated before July 1, 2017, handbooks and forms will be available shortly before that date. The new requirements governing nomination contestants will not apply before July 1, 2017.

Questions and Answers:

Pre-Contest Registration

Q. If a party has not yet called a nomination contest, can someone register with Elections Ontario?

A. If a party has not yet called a nomination contest in an electoral district, no one can register as a nomination contestant for that party with Elections Ontario.

Pre-Contest Activity

Q. What activity can someone engage in prior to the official call of a nomination contest?

A. Before the official call of a nomination contest, someone (or others working on their behalf) can sell party memberships (\$25 or less). However, the prospective contestant cannot receive contributions to support their nomination contest. A prospective contestant can use their own funds to support exploratory activities, but monetary contributions from others are prohibited. However, others may voluntarily produce goods or perform services to support exploratory activities – just as they may to support the nomination contest campaign.

Contest Notification

Q. If a party advises the CEO that it will call a contest on a specific date in the future, does someone have to register with Elections Ontario before that future date?

A. Anyone who actively engages in the contest must register with Elections Ontario as soon as the CEO is advised one is taking place.

Q. If a party advises the CEO that it will call a contest on a specific date in the future (but does not name the date of the vote) does someone have to register with Elections Ontario?

A. Anyone who actively engages in the contest must register with Elections Ontario as soon as the CEO is advised one is taking place.

Q. If a party calls a contest and/or vote (but does not advise the CEO of that fact) does someone have to register with Elections Ontario?

A. This situation has to be considered in the circumstances of the particular case. If notification is provided late, before the contest concludes, the registration requirements may be applied at the discretion of the CEO. Where contests are held without notifying the CEO at all (or notifying him after the fact), the matter is

a serious infringement of the Act and the party, its officials, and the contestants may instead be referred to the Attorney General.

Appointed Candidates

Q. If a party does not call a contest (i.e. just appoints a candidate) does someone who was pursuing an endorsement have to register with Elections Ontario?

- A. If a party does not call a contest (i.e. just appoints a candidate) someone who was pursuing an endorsement does not have to register with Elections Ontario. Because the person does not have to register, their financial activity is not reported to Elections Ontario. However, they must still have observed the requirements set out in “Pre-Contest Activity”, above.

Acclaimed Candidates

Q. If a party calls a contest and the candidate is acclaimed, does someone who was pursuing an endorsement have to register with Elections Ontario?

- A. If a party calls a contest and the selection of the party’s candidate is going to be put to a vote, anyone who has spent money must already have registered with Elections Ontario prior to the date fixed for the vote.

Nomination Contestants who say they have no financial activity

Q. What financial activity requires a person to register as a Nomination Contestant?

- A. If a party calls a contest and the selection of the party’s candidate is going to be put to a vote, anyone who actively engages in that contest expends resources to do so. As such, they must register with Elections Ontario.

Ineligible Candidates at an election

Q. If a person is disqualified/prohibited because of a legal prohibition from being a candidate, are they permitted to register as a contestant?

- A. The person is not prohibited from being a nomination contestant. Anyone in the contest must register with Elections Ontario.

Persons disqualified by a Party

Q. If a person is disqualified/prohibited by a party from being a contestant, are they required to register?

- A. Once a contest has been called, anyone who actively engages in the contest should register. Their financial activity must be reported up to the time they are screened out/disqualified by the party prior to the date fixed for the vote. The funds they raise, prior to that point, still count towards the annual combined association/contestant contribution limit.

Withdrawn Contestants

Q. If a party calls a contest and one or more contestants withdraw before the vote, does a contestant who has withdrawn have to report to Elections Ontario?

A. Once a contest has been called, anyone who actively engages in the contest should register. Their financial activity must be reported up to the time the CEO is advised the contestant has withdrawn. The funds they raise, prior to that point, still count towards the annual combined association/contestant contribution limit.

Cancelled Contests

Q. If a party calls a contest, advises the CEO of that fact, but then cancels the contest before the vote (i.e. because it just appoints a candidate or decides not to name a candidate) does someone who registered have to report to Elections Ontario?

A. Once a contest has been called, anyone who actively engages in the contest should register. Their financial activity must be reported up to the time the CEO is advised the contest is cancelled. The funds they raise, prior to that point, still count towards the annual combined association/contestant contribution limit.

Subsequent Contests

Q. If a party calls a contest, advises the CEO of that fact, holds a vote, but then holds a later contest to select a different candidate (i.e. because the selected person resigns or is disqualified by the party from being a candidate) does someone who registered in the “first race” have to report to Elections Ontario?

A. Once a contest has been called, anyone who actively engages in the contest should register. Their financial activity must be reported just as it would for any other contest. The funds they raise in the first contests still count towards the annual combined association/contestant contribution limit.

End of Registration Status

Q. After a contest concludes, when does the status of being a “registered nomination contestant” end?

A. The status of being a “registered nomination contestant” ends when the contest period ends or it is cancelled.

This applies to all registered contestants – including those who withdraw prior to the date fixed for the vote or who are disqualified by a party from running after the contest is called (i.e. during the contest period).

Unregistered Political Parties

Q. Unregistered political parties may select candidates in contests that are not regulated. Do the nomination contestant rules apply to those unregulated contests and contestants?

A. No, the nomination contest provisions do not apply to unregistered political parties (i.e. those parties who have not yet been registered through the petition process)

or who have not nominated two candidates in a general election or two concurrent by-elections).

Party Reporting to Elections Ontario

Q. What information about nomination contests should parties provide to Elections Ontario?

A. Prior to the call of a nomination contest, parties are required to advise the CEO of the following:

- The date of the call of a nomination contest.
- The date fixed for the vote in a nomination contest.

Within 30 days following the date of the vote/selection of the membership of a constituency association, parties are required to advise the CEO of the following:

- The date of the call of a nomination contest.
- The date of the vote/selection in a nomination contest.
- The names and addresses of the contestants – and those of their chief financial officers – as of the date of the vote/selection.
- The name of the selected candidate.

Additionally, parties should promptly advise the CEO of:

- The date of the opening and closing of nominations in a nomination contest.
- The date of cancellation of any nomination contests.
- The names of any persons who withdrew, or were disqualified from running, after the date of the opening of nominations.
- The names of any candidates who have been appointed by the party in lieu of holding a vote/selection by a constituency association, and the date of any such appointments.

Transition Rules – Nomination Contests ended before July 1, 2017

Q. What special rules apply to nomination contests and contestants where the vote date is before July 1, 2017?

A.

- Nomination contestants do not have to register with Elections Ontario and therefore are not required to report on their financial activity.
- Parties do not have to report on nomination contests to Elections Ontario where the contest ends before July 1, 2017.
- Source, contribution, and spending limits do not apply to these contests.
- Borrowing provisions do not apply.
- Contributions made to nomination contestants do not apply to the annual combined association/contestant contribution limit.
- The surplus from a contestant's campaign cannot be transferred to either a constituency association or a candidate's campaign. The funds are treated as the contestant's own funds and, if given to the party, must be treated as a contribution

from the contestant (and are therefore subject to that person's annual contribution limit).

- Because these contestants are not registered, the fund-raiser attendance restrictions do not apply.

Transition Rules – Nomination Contest Called before July 1, 2017 and the vote/selection date is on or after July 1, 2017

Q. What special rules apply to nomination contests and contestants where the contest was called before July 1, 2017 and the vote/selection date is on or after July 1, 2017?

A.

- Nomination contestants have to register with Elections Ontario as of July 1, 2017.
- Nomination contestants are required to report on their financial activity post-dating on and after July 1, 2017.
- Parties have to report on nomination contests where the contest ends on or after July 1, 2017.
- Source and contribution limits apply to contributions made on or after July 1, 2017.
- Contest spending limits apply to goods and services that are used on or after July 1, 2017. Even if the expenditure was made prior to July 1, 2017, the spending limit applies to goods and services used after that date. The expenditure may be pro-rated to take into account goods or services used in part prior to July 1, 2017.
- Borrowing provisions apply to loans obtained on or after July 1, 2017.
- Contributions made to nomination contestants on or after July 1, 2017 apply to the annual combined association/contestant contribution limit.
- The surplus from a contestant's campaign must be transferred to either a constituency association or a candidate's campaign but are not treated as a contribution.
- Because these contestants must register, the fund-raiser attendance restrictions apply.

The Compliance Division is your contact for information about your obligations under the *Election Finances Act*.

Elections Ontario
Compliance Division
51 Rolark Drive
Toronto ON M1R 3B1
Tel: 416-325-9401
Toll-free: 1-866-566-9066
Fax: 416-325-9466
Email: electfin@elections.on.ca

Please note our office hours are: Mon-Fri 8:30A.M.– 4:30P.M. EST