

BRIEFING

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Returning Officer's Briefing to
Combined Meeting of Council
2022 April 12

ISC: UNRESTRICTED
C2022-0344

2021 General Election: Non-Compliance in Relation to Disclosure Statements

PURPOSE OF BRIEFING

The *Local Authorities Election Act* ("LAEA") sets out the requirements for election finances and contribution disclosures for candidates in General Elections. Section 147.8(1) of the LAEA provides that if a candidate for election of municipal councillor fails to file a disclosure statement as per the requirements of the LAEA, the secretary shall transmit a report to that effect to Council. The LAEA provides that the report shall be made public upon receipt.

As required by the LAEA, this Briefing meets the statutory reporting obligation to inform Council of the municipal councillor candidates from the 2021 General Election that failed to file their disclosure statements by the deadline of 2022 March 11. School board trustee candidates for the Calgary Board of Education and the Calgary Catholic Separate School District who did not file a disclosure statement by the deadline of 2022 March 11 are included in a separate report to their respective school boards.

SUPPORTING INFORMATION

Disclosure statement requirements

The LAEA sets out the requirements for candidates, including candidates who have withdrawn or were elected by acclamation, with respect to campaign disclosure statements. Section 147.4 provides that on or before March 1, immediately following a general election, a candidate shall file with the secretary of the candidate's local jurisdiction a disclosure statement in the prescribed form. Specifically, the LAEA requires that the disclosure statement must include:

- (a) the total amount of all contributions received during the campaign period that did not exceed \$50 in the aggregate from any single contributor,
 - (b) the total amount contributed, together with the contributor's name and address, for each contributor whose contributions during the campaign period exceeded \$50 in the aggregate,
 - (c) the total amount of all contributions received as referred to in section 147.22(3),
 - (d) the total amount from fund-raising functions,
 - (e) the total amount of other revenue,
 - (f) the total amount of campaign expenses,
 - (g) an itemized campaign expense report setting out the campaign expenses incurred by the candidate,
 - (h) the total amount paid by the candidate out of the candidate's own funds not reimbursed from the candidate's campaign fund,
 - (i) the total amount of any campaign surplus, including any surplus from previous campaigns, and
 - (j) the amount of any deficit.
- (2) A candidate who has incurred campaign expenses or received contributions of \$50 000 or more shall file a review engagement with the disclosure statement referred to in subsection (1).

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Disclosure statement compliance

Section 147.4 of the LAEA requires candidates to file disclosure statements by 2022 March 1. Candidates who did not file disclosure statements by 2022 March 1 are subject to a late filing fee of \$500, payable to The City of Calgary. The LAEA provides for a ten-day period after the 2022 March 1 deadline to allow candidates to file their disclosure statements. If a candidate files a disclosure statement no later than 10 days after the filing deadline, the secretary will not transmit a report to Council in relation to the candidate. Attachment 1 sets out those candidates for election of municipal councillor who failed to file a disclosure statement as required by section 147.4 of the LAEA.

As set out in Subsection 22(1.2) of the LAEA, a person is not eligible to be nominated as a candidate for election as a councillor (including mayor) or a school board trustee if:

- (a) a report was transmitted under section 147.8(1) in respect of the person,
- (b) the Court did not dispense with, or extend the time for, compliance with section 147.4 by an order under section 147.8(3), and
- (c) subject to subsection (1)(d.1), nomination day for the election occurs within
 - (i) the 8-year period following the day on which the secretary transmitted the report to council or the school board, or
 - (ii) where the disclosure statement required by section 147.4 has been filed with the secretary, the 3-year period following the day of filing, whichever period expires first.

Non-compliant candidates may apply to the Court for relief by 2022 June 11 (within 60 days of the date on this Briefing) as per Section 147.8 (2) of the LAEA.

Offences and fines

A candidate who fails to comply with Section 147.4(1) or a candidate who has not filed their campaign disclosure statements by 2022 April 1, is guilty of an offence and may be subject to a fine of \$5,000, as per section 147.84 of the LAEA. The Election Commissioner has the authority to investigate violations or potential violations of Part 5.1 of the LAEA (Election Finances and Contributions Disclosure) and impose an administrative penalty. The LAEA provides that the Returning Officer shall, within a reasonable time, report any act or omission that likely constitutes an offence under Part 5,1 to the Election Act. Accordingly, if a candidate fails to file disclosure statements by 2022 April 1, the Returning Officer is required by subsection 205(b) of the LAEA to notify the Elections Commissioner of Alberta.

Public access to disclosure statements

Subsection 147.4(7) of the LAEA requires that disclosure statements be made available to the public for a period of four years. Candidate disclosure statements are made available on the Elections Calgary website for public convenience. Elections Calgary does not review candidates' disclosure statements for accuracy or completeness, nor provide any assurances respecting their accuracy, thoroughness or legality.

Courtesy notice of filing deadlines to candidates

Neither the Returning Officer or the secretary are required to provide statutory notice of disclosure statement filing deadlines to candidates; however, courtesy notices were provided. In 2020, a candidate helpline and email were opened to address candidate questions and concerns. In 2021 candidates were reminded to review their campaign finance obligations as set out by the LAEA through information sessions, newsletters and direct communication with

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Elections Calgary. In 2021 November , the disclosure statement form was posted on the Elections Calgary website. Notices regarding disclosure requirements and deadlines were communicated between 2021 November and 2022 March by e-newsletter, social media and the Elections Calgary website. A media advisory regarding disclosure statement requirements was issued on 2022 February 16.

ATTACHMENT

1. Attachment 1 – 2021 General Election: Candidates in Non-Compliance with Disclosure Statement Filing Requirements