

School Board Election Campaign Financing Guidebook

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Preface

The School Board Elections Campaign Financing Manual is designed to assist Senior Election Officials (SEOs) to prepare for and administer school board election campaign financing requirements under The Public Schools Act (PSA).

Campaign financing requirements are in place for all Manitoba school boards. All prospective candidates are required to register with the SEO before beginning their campaign and before the close of nominations.

Overview of the Manual

The manual includes a glossary of campaign financing terms, pre-election planning information, information to assist in administering campaign financing requirements, and post-election procedures for receiving candidates' Election Finance Statements.

How to Use the Manual

For quick reference, a detailed table of contents and section headings allow you to find specific topics.

In each section of the manual, you will see a reference to The Public Schools Act with applicable section or subsection numbers.

When using the guide, reference should be made to The Public Schools Act. This manual is not a substitute for the legislation. Users of this manual are encouraged to contact Education Administration Services. In a difficult or unusual circumstance, a legal opinion may be necessary to ensure conformity with the legislation.

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Glossary of Campaign Finance Terms

All campaign finance terms come from sections 27.1(1) to 27.1(4) of the PSA.

Campaign Expense – Money spent or liabilities incurred by a candidate for property or services and the value of non-monetary contributions of property and services used for election purposes during a campaign period.

The value of non-monetary contributions accepted by a candidate – or on behalf of a candidate with the candidate's knowledge and consent – in the form of property and services used for election purposes during a campaign period. Does not include expenses relating to a recount.

Campaign Period –

General Election:

June 30 in the year of the election, ending on March 31 the following year

By-election

The day when the SEO receives the warrant to hold the by-election, ending 90 days after the election

Contribution – Money paid and non-monetary contribution provided to or for the benefit of a registered candidate

Non-monetary Contribution – Property or services provided free of charge or at less than market value, including:

(a) services of an employee provided by an employer;

(b) property provided voluntarily by a person or organization who is a commercial supplier of the property; and

(c) services provided voluntarily by a person or organization who is a commercial or occupational supplier of the services;

but does not include property or services provided voluntarily other than those described in clauses (b) and (c).

Registered candidate – A registered candidate for school trustee.

Value of non-monetary contribution – The value of a non-monetary contribution is its market value when the contribution is made. If property or services are provided at less than their market value, the value of the non-monetary contribution is the difference between the market value of the property or services when they were provided and the amount charged by the person providing them.

Value of non-monetary contribution by employer – If an employer contributes the services of an employee, the value of the contribution is the cost to the employer of the employee's salary or wages during the period the services are provided.

Senior Election Officials

Role of the Senior Election Official

The role of the Senior Election Official (SEO), among other things, is to instill public confidence in the electoral process in the school division and to assist those who have a responsibility to comply with the campaign finance rules. Consistency in administration is critical. The best way to prepare for the process is to be informed and organized well before the campaign period commences.

The SEO should review The Public Schools Act campaign financing provisions throughout the election process to ensure that all obligations are met. Refer to both the legislation and this manual often.

Refer to Appendix A for the campaign financing excerpts from The Public Schools Act.

The SEO will need to provide assistance to candidates to help them comply with the campaign finance rules. Some of the ways assistance may be provided include:

- hosting an information session for candidates
- handling telephone inquiries
- issuing periodic reminders to registered candidates (e.g., a reminder of filing deadlines)
- providing tools and printed material for distribution to candidates

Registration

Candidate Nomination: Section 27.2(1)

Prospective candidates must file registration papers with the SEO during the campaign period before campaign period closes, before they can begin to accept contributions and spend money on their campaign.

A sample registration form and notice of registration is included in the Election Official Manual (Forms 10C and 11C).

Registration Forms: Section 27.2(2)

Prospective candidates must include their name and address and as well as any additional information required by the SEO.

Campaign Financing Package for Candidates

The SEO should provide each candidate, upon registration, with a campaign financing package that includes:

- a copy of the voters list – ensure that candidates know that it may only be used for election purposes
- the SEO's contact information

Campaign Contributions: Section 27.4(1) – 27.7(3)

At the time a candidate registers, SEOs should remind prospective candidates that there are rules regarding campaign contributions.

Not all candidates will receive contributions but for those that do, there are rules to be followed. These rules include:

- Only residents of Manitoba are allowed to contribute to school division campaigns (this also includes individuals who are normally residents in the boundary area as defined in *The Flin Flon Extension of Boundaries Act*).
- \$1,500 total contribution limit by an individual (maximum \$25 cash contribution)
- \$7,500 total monetary contribution limit by a registered candidate to their own campaign
- A contribution from a person not authorized to contribute or that exceeds contribution limits must be promptly returned
- Anonymous contributions must be turned over to the senior election official without delay and will become part of the general funds of the school division

Campaign Expenses: 27.8(1) – 27.8(3)

Campaign expenses cannot exceed the total monetary contributions received, including the contributions made by the candidate. Expenses incurred for a candidate's child care or because of a disability of the candidate are not included as campaign expenses.

A candidate cannot incur a deficit from their campaign.

Recording Contributions and Expenses: Section 27.9

At the time a candidate registers, the SEO must remind each registered candidate that it is important for them to keep track of any contributions that they receive or expenses they incur. As soon as contributions are accepted or expenses incurred for campaign purposes, record keeping must begin.

Candidates must keep records of contributions received and campaign expenses incurred. These records must be retained for at least two years after the election and must be made available on request from the school division's secretary-treasurer.

Election Finance Statement

Requirement for all Registered Candidates to File: Section 27.11(1), 27.11(4)

At the time a candidate registers, the SEO must let the candidate know that at the end of their campaign, regardless of whether they are elected, they must file an Election Finance Statement with the school division's secretary-treasurer.

The Election Finance Statement includes:

- All contributions received by the candidate
- The name, address, and contribution of each contributor who has contributed more than \$250 to the candidate
- An itemized list of campaign expenses incurred by the candidate

Once the election is over, all registered candidates must file an Election Finance Statement with the secretary-treasurer. It will be helpful to forward a reminder letter of this requirement to all candidates, as soon as possible after the election.

Election Finance Statements are made publicly available on the school divisions website once they are received.

Filing Deadline: Section 27.11(2)

Candidates must file their Election Finance Statement within 30 days after the end of the campaign period.

Statutory Declaration: Section 27.11(3)

Candidates must submit a statutory declaration with their Election Finance Statement confirming the accuracy of the information provided in the statement.

Surplus Payable to School Division: Section 27.12

Any surplus showing on a candidate's Election Finance Statement must be turned over to the school division.

The school division must hold the surplus in trust for the candidate and pay it to the candidate if they are registered in the next general election or in a by-election prior to the next general election. If the candidate does not run in the next general election, the surplus must be paid into the general funds of the school board.

Campaign Financing Offenses

There are a number of campaign financing offences under The Public Schools Act which carry penalties.

It is illegal for a candidate to:

- Accept a contribution before being registered – section 27.3(a)
- Incur a campaign expense before being registered – section 27.3(b)
- Accept a contribution from someone who does not live in Manitoba – section 27.4(1)
- Accept a contribution over the maximum amount – section 27.5(1), 27.5(3), 27.6
- Accept a contribution that does not belong to the individual or has been provided by another individual – section 27.5(2)
- Accept a contribution outside the campaign period – section 27.5(4)
- Keep an anonymous contribution – section 27.7(3)
- Incur campaign expenses that exceed the monetary contributions received – section 27.8(1)
- Incur a deficit – section 27.8(2)
- Not keep proper records of contributions and expenses and retain them for two years – section 27.9
- Lend money raised for their election to another person or organization – 27.10
- Not file Election Finance Statement – section 27.11(1)
- Not pay surplus funds raised to the school division or school districts – section 27.12(1)

The Court of King's Bench determines if a person is guilty of the offence. If found guilty, the Court can impose a fine of up to \$5,000.

Appendix A – The Public Schools Act

CAMPAIGN FINANCING FOR SCHOOL BOARD ELECTIONS

Definitions and Interpretation

Definitions

27.1(1) The following definitions apply in this section and in sections 27.2 to 27.13.

"campaign expense" means

- (a) money spent or liabilities incurred by a registered candidate — or on behalf of a candidate with the candidate's knowledge and consent — for property or services used for election purposes during a campaign period; and
 - (b) the value of non-monetary contributions accepted by a candidate — or on behalf of a candidate with the candidate's knowledge and consent — in the form of property and services used for election purposes during a campaign period;
- but does not include expenses relating to a recount. (« dépenses électorales »)

"campaign period" means

- (a) for a general election, the period beginning on June 30 in the year of the election and ending on March 31 of the following year; and
- (b) for a by-election, the period beginning on the day the senior election official receives the warrant to hold the by-election and ending 90 days after election day. (« période de campagne électorale »)

"contribution" means money paid or a non-monetary contribution provided, without compensation, to or for the benefit of a registered candidate. (« contribution »)

"non-monetary contribution" means property or services provided free of charge or at less than market value, including

- (a) services of an employee provided by an employer;
 - (b) property provided voluntarily by a person or organization who is a commercial supplier of the property; and
 - (c) services provided voluntarily by a person or organization who is a commercial or occupational supplier of the services;
- but does not include property or services provided voluntarily other than those described in clauses (b) and (c). (« contribution non monétaire »)

"registered candidate" means a candidate for school trustee who has been registered under section 27.2. (« candidat inscrit »)

Meaning of other words and expressions

27.1(2) Words and expressions used in this section and sections 27.2 to 27.13 and not defined in this section have the same meaning as in *The Municipal Councils and School Boards Elections Act*.

Value of non-monetary contribution

27.1(3) The value of a non-monetary contribution is its market value when the contribution is made. If property or services are provided at less than their market value, the value of the non-monetary contribution is the difference between the market value of the property or services when they were provided and the amount charged by the person providing them.

Value of non-monetary contribution by employer

27.1(4) If an employer contributes the services of an employee, the value of the contribution is the cost to the employer of the employee's salary or wages during the period the services are provided.

Registration of Candidates

Registration of prospective candidate

27.2(1) The senior election official must register a person who proposes to be a candidate in an election for school trustee if

- (a) during the campaign period for the election and before nominations close, the person applies to be registered in a form approved by the senior election official; and
- (b) the senior election official is satisfied that the person is eligible to be nominated.

Information that prospective candidate must provide

27.2(2) A person applying to be registered as a candidate must provide their name, address and any additional information the senior election official may require.

Registered candidate entitled to copy of voters list

27.2(3) On request, the senior election official must give a registered candidate a copy of the voters list in a form determined by the senior election official.

Election financing activities prohibited if candidate not registered

27.3 A person who is not registered as a candidate, or a person acting on behalf of such a person, must not, for the purpose of electing the person,

- (a) solicit or accept money or a non-monetary contribution; or
- (b) incur an expense.

Contributions

Only individual residents may contribute

27.4(1) A person or organization must not make a contribution to a registered candidate unless the person is an individual resident in Manitoba.

Flin Flon residents

27.4(2) An individual who is normally resident in the boundary area defined in The Flin Flon Extension of Boundaries Act, S.M. 1989-90, c. 73, may make a contribution to a registered candidate in an election in the school division that includes the City of Flin Flon.

Maximum contribution of \$1,500

27.5(1) An individual must not make contributions exceeding a total of \$1,500 to any one registered candidate in an election.

Contributor to use own money or property

27.5(2) An individual must not make a contribution of anything
(a) that does not actually belong to the individual; or
(b) that has been provided to the individual by another person or organization for the purpose of making the contribution.

Limit on cash contributions

27.5(3) An individual must not contribute cash in an amount that exceeds \$25.

Only during election campaign period

27.5(4) An individual must not make a contribution except during the campaign period, and a candidate or person acting on the candidate's behalf must not accept a contribution except during that period.

Registered candidate may contribute to own campaign

27.6 A registered candidate may make a monetary contribution to their own campaign but the total amount must not exceed \$7,500.

Contributions that registered candidate must not accept

27.7(1) A registered candidate or a person acting on the candidate's behalf must not solicit or knowingly accept a contribution
(a) that is from a person or organization who is not authorized to contribute under section 27.4;
(b) that results in the contribution limit in subsection 27.5(1) or section 27.6 being exceeded; or
(c) that is otherwise prohibited under section 27.5.

Return of contribution

27.7(2) If a registered candidate learns that a contribution has been accepted contrary to subsection (1), the candidate must promptly return it to the contributor or pay the contributor an amount equal to its value.

Anonymous contributions

27.7(3) A registered candidate who receives an anonymous contribution must turn it over to the senior election official without delay. Such a contribution becomes part of the general funds of the school division or school district.

Campaign Expenses

Campaign expense limit

27.8(1) A registered candidate must not incur campaign expenses that exceed the total amount of monetary contributions received, including contributions made by the candidate to their own campaign under section 27.6.

No deficit

27.8(2) A registered candidate must not incur a deficit in respect of their campaign.

Amounts excluded from campaign expenses

27.8(3) In determining a candidate's campaign expenses for the purpose of this section, the expenses that a candidate incurs for child care, or because of a disability of the candidate, that are over and above what the candidate normally incurs for those reasons are not campaign expenses.

Obligations — Records and Finances**Duties of registered candidate — records**

27.9 A registered candidate must ensure that

- (a) proper records are kept of contributions received and campaign expenses incurred by the candidate; and
- (b) all financial records relating to the election campaign are retained for at least two years after the election and made available on request to the secretary-treasurer.

No loans from registered candidates to others

27.10 A registered candidate must not lend money raised for the purposes of an election to another person or organization.

Registered candidate to file election finance statement

27.11(1) A registered candidate must file with the secretary-treasurer an election finance statement that contains the following information respecting the campaign period:

- (a) all contributions received by the candidate;
- (b) the name, address and the contribution of each contributor who has contributed more than \$250 to the candidate;
- (c) an itemized list of campaign expenses incurred by the candidate.

Filing deadline

27.11(2) A registered candidate must file their election finance statement within 30 days after the end of the campaign period.

Statutory declaration required

27.11(3) An election finance statement must be accompanied by a statutory declaration confirming the accuracy of the information provided in the statement.

Publication 27.11(4)

The secretary-treasurer must make an election finance statement received from a registered candidate publicly available on a school division or school district website as soon as practicable after it is received.

Surplus payable to school division or school district

27.12(1) If the election finance statement of a registered candidate shows a surplus, the candidate must, without delay, pay the surplus to the school division or school district.

Release of surplus

27.12(2) The school board or school district must hold the amount of the surplus in trust for the candidate and pay it

- (a) to the candidate if the candidate is a registered candidate in the next general election or in a by-election that occurs before the next general election; or
- (b) into the general funds of the school board or the school district, in any other case.

Offences

Offences

27.13(1) A person or organization that contravenes any of the following provisions is guilty of an offence:

- (a) section 27.3 (prohibited activities if candidate not registered);
- (b) section 27.4 (prohibited contributors);
- (c) sections 27.5 to 27.7 (contribution requirements);
- (d) section 27.8 (campaign expense requirements);
- (e) sections 27.9 to 27.11 (candidate's obligation — records, loans and election finance statement);
- (f) subsection 27.12(1) (candidate's surplus).

Offence relating to failure to provide information

27.13(2) A registered candidate who omits to state a material fact when providing information in a statement or other document required under section 27.11 is guilty of an offence.

Offences relating to false or misleading information

27.13(3) A person or organization that knowingly gives false information about a contribution or a purported contribution to a registered candidate or other person who is authorized to accept a contribution is guilty of an offence.

Liability of directors and others

27.13(4) If a corporation or organization commits an offence under this section, a director, officer, employee or agent of the corporation or organization who authorized, permitted or acquiesced in the offence commits the same offence, whether or not the corporation or organization has been prosecuted or convicted.

Deemed actions of directors and others

27.13(5) An act or thing done or omitted to be done by a director, officer, employee or agent of a corporation or organization within the scope of the individual's authority to act on behalf of the corporation or organization is deemed to be an act or thing done or omitted to be done by the corporation or organization.

Penalty 27.13(6)

A person who is convicted of an offence under this section is liable to a fine of not more than \$5,000.

No disqualification — offences

27.14 Section 39.6 (disqualification for violation or conviction) does not apply to a person who is alleged to have violated a provision of sections 27.3 to 27.12 or is convicted of any offence referred to in section 27.13.