



ELECTIONS BC

A non-partisan Office of the Legislature

**MEDIA OBLIGATIONS UNDER
THE *LOCAL ELECTIONS
CAMPAIGN FINANCING ACT***

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Introduction

Elections BC is an independent and non-partisan Office of the Legislature. Elections BC is responsible for the administration of the provincial electoral process in B.C. and the local elections and assent voting campaign financing and advertising rules.

This guide explains the sections of the *Local Elections Campaign Financing Act* (LECFA) that apply to the media and clarifies LECFA's provisions about election and assent voting advertising.

This guide is intended only as an aid to understanding LECFA. How LECFA applies to any particular case will depend on the individual circumstances of the case, and may change in light of new legislative and judicial developments. Where there is an inconsistency between this guide and LECFA, LECFA will prevail.

You can view LECFA on the Elections BC website (elections.bc.ca) or you can buy a copy from Crown publications (crownpub.bc.ca).

Privacy

Elections BC has the authority to collect, use, disclose and dispose of personal information under the *Local Elections Campaign Financing Act* and the *Freedom of Information and Protection of Privacy Act*. This information is used to administer provisions of the *Local Elections Campaign Financing Act*.

For more information about Elections BC's privacy policies, please visit elections.bc.ca/privacy or contact the **Privacy Officer, Elections BC** at 1-800-661-8683 or privacy@elections.bc.ca or PO Box 9275 Stn Govt, Victoria, BC V8W 9J6.

Definitions

The following key terms have been used throughout this guide. Most of the terms are defined in the *Local Elections Campaign Financing Act* (LECFA).

Assent voting	Voting on a bylaw or other matter for which a local government is required or authorized to obtain the assent of the electors. Assent voting may also be referred to as a “referendum.”
Assent voting proceedings period	The period that begins on the 28th day before General Voting Day and ends at the close of voting on General Voting Day.
Authorized principal official	An individual who makes legally binding statements and declarations on behalf of an elector organization or advertising sponsor. Responsibilities include ensuring a disclosure statement is filed and retaining records related to the campaign or sponsorship contributions and sponsored advertising.
B.C. Chief Electoral Officer	An independent Officer of the Legislature appointed by the Lieutenant Governor on the recommendation of the Legislative Assembly. The B.C. Chief Electoral Officer is responsible for the administration of the provincial electoral process in B.C. and the campaign financing and third party advertising provisions for local elections and non-election assent voting.
Campaign period	The period that begins on the 28th day before General Voting Day and ends at the close of voting on General Voting Day.
Candidate	In relation to candidate obligations applicable under LECFA, an individual who: <ul style="list-style-type: none"> (a) intends to become a candidate in an election, (b) is seeking or intends to seek endorsement by an elector organization for an election, or (c) was a candidate
Directed advertising	Advertising specifically related to a candidate or elector organization by naming the candidate or elector organization or identifying the candidate by an image, likeness, voice or physical description or identifying an elector organization by their logo.
Election advertising	See page 5.
Election area	The defined geographical area where the election is held.
Election period	The period that begins on January 1 and ends on the 29th day before General Voting Day for general local elections. For local by-elections, the election period starts on the day the office becomes vacant and ends on the 29th day before General Voting Day.

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Elections BC	A non-partisan Office of the Legislature responsible for the administration of the provincial electoral process in B.C. and the campaign financing and third party advertising provisions for local elections and non-election assent voting events.
Elector organization	An organization that endorses or intends to endorse a candidate in an election.
Financial agent	A representative that a candidate and elector organization is required to appoint during an election campaign. A candidate may either act as their own or appoint another individual to this position. A candidate or elector organization may not have more than one financial agent at the same time.
General Voting Day	The final voting day in a general local election, by-election or assent voting event.
Issue advertising	A form of third party advertising that is: (a) a communication respecting an issue of public policy, including an assent voting issue, and (b) not specifically related to any candidate or elector organization
Jurisdiction	The applicable jurisdiction in which a general local election, by-election or assent voting event is held.
Local election officer	An individual appointed by a local authority to conduct a general local election, by-election or non-election assent voting. Local election officers are also called chief election officers.
Non-election assent voting	Assent voting that is held separately from a local election. Assent voting is voting on a bylaw or other matter for which a local government is required or authorized to obtain the assent of the electors. Assent voting may also be called a “referendum.”
Non-election assent voting advertising sponsor	An individual or organization that sponsors non-election assent voting advertising or that registered as a non-election assent voting advertising sponsor.
Placement cost	The cost of purchasing election advertising space on the internet, including a social media site or website.
Responsible principal official	In relation to an elector organization or advertising sponsor that is an organization, an individual who represents an elector organization or advertising sponsor. Each elector organization or advertising sponsor that is an organization must have at least two individuals consent to be the responsible principal officials, one of which may be the authorized principal official.
Third party advertising	See page 5.

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Third party sponsor	An individual or organization who sponsors or intends to sponsor election advertising independently from the election campaign of any candidate or elector organization.
Value of election or non-election assent voting advertising	The value of election or non-election assent voting advertising is: <ul style="list-style-type: none"><li data-bbox="526 583 1365 646">▪ The price paid for preparing and transmitting the advertising (including applicable taxes) or,<li data-bbox="526 653 1365 741">▪ The market value of preparing and transmitting the advertising (including applicable taxes), if no price is paid, or if the price paid is lower than the market value.

Election and assent voting advertising under the *Local Elections Campaign Financing Act*

What is election and assent voting advertising?

The definition of election and assent voting advertising is broad, and applies to candidates, elector organizations and advertising sponsors during the campaign period and assent voting proceedings period.

Election advertising is any transmission of a communication to the public during a campaign period that directly or indirectly promotes or opposes:

- a candidate
- an elector organization
- an issue associated with a candidate or elector organization

Assent voting is voting conducted in conjunction with a local election (general or by-election) on a bylaw or other matter for which a local government is required or authorized to obtain the assent of the electors. Assent voting may also be referred to as a “referendum”.

Assent voting advertising relevant to an election is:

- advertising during the campaign period for a local election (general or by-election) that directly or indirectly promotes or opposes a particular result in the assent voting, and
- the voting is held in the same jurisdiction and at the same time as the election.

When assent voting is relevant to an election, an assent voting advertising sponsor registers as a **third party advertising sponsor**.

When assent voting is held at a different time than an election, an assent voting advertising sponsor registers as a **non-election assent voting advertising sponsor**.

For purposes of clarity, this guide refers to assent voting advertising when the assent voting is held at a different time than an election.

Election and assent voting advertising does not include:

- messages on the internet that do not, and would not normally, have a placement cost, including free social media posts, websites and videos. Examples of free messages that are not election advertising include Facebook, Instagram and Snapchat posts, tweets, YouTube videos and websites.
- personal or private communications (such as private letters, emails, in-person or telephone conversations, etc.)

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- free media coverage from a legitimate media provider (such as news stories, editorials, radio interviews, etc.)
- producing, promoting or distributing a publication if it was planned to be sold whether or not there was an election
- a communication by an individual or group sent directly to their members, employees or shareholders
- transmission by an individual, on a non-commercial basis, on the internet, or by telephone or text message, of their personal views

Examples

Election and assent voting advertising	Not election or assent voting advertising
<ul style="list-style-type: none"> ▪ television, radio, newspaper or magazine advertisements ▪ signs, billboards, posters, bumper stickers or branded clothing or objects ▪ newsletters, brochures, mailing inserts or other advertising sent to the public ▪ internet ads with a placement cost (such as pay-per-click ads, Facebook ads, promoted posts, banner ads, pop-up ads, etc.) ▪ phone calls made using an automated system (e.g., robocalls) 	<ul style="list-style-type: none"> ▪ personal or private communications ▪ free media coverage from a legitimate media provider (such as candidate debates on a local news channel, news stories, interviews, letters to the editor, etc.) ▪ a communication by an individual or group sent directly to their members, employees or shareholders ▪ any free communication on the internet (such as Facebook, Twitter, Instagram, Snapchat, YouTube, etc.) ▪ person-to-person phone calls and text messages ▪ websites or blogs ▪ producing, promoting or distributing a publication if it was planned to be sold whether or not there was an election

How to request an opinion from Elections BC

On request, Elections BC will review a message and provide an opinion on whether our office considers the message to be election or assent voting advertising.

To request an opinion, call Elections BC at 1-855-952-0280, or email lecf@elections.bc.ca.

Obtaining an opinion from Elections BC is not the same as obtaining a legal opinion. If you require greater certainty, you should obtain independent legal advice.

Who can sponsor election or assent voting advertising?

The *Local Elections Campaign Financing Act* (LECFA) limits who can sponsor election or assent voting advertising.

Election and assent voting advertising can only be sponsored by:

- candidates,
- elector organizations,
- individuals and organizations registered as third party advertising sponsors with Elections BC (they must not sponsor election advertising on behalf of or together with candidates or elector organizations),
- individuals and organizations registered as non-election assent voting advertising sponsors with Elections BC.

A list of registered advertising sponsors for each electoral event is available on Elections BC's website at elections.bc.ca.

Determining the sponsor of election or assent voting advertising

Generally, the sponsor of election or assent voting advertising is:

- the individual or organization who pays for it, or
- the individual or organization who receives the advertising without charge as a contribution, or
- if election or assent voting advertising is paid for or the services are provided without charge on another individual or organization's behalf, the other individual or organization is the sponsor.

No indirect election or assent voting advertising

Election and assent voting advertising cannot be sponsored indirectly. This means that election or assent voting advertising cannot be sponsored through another individual or organization, or with another individual or organization's property.

Conditions for publishing election or assent voting advertising

Media outlets (e.g., radio, newspapers, television, magazines, online advertisers, etc.) must not publish, broadcast or transmit election or assent voting advertising unless it includes sponsorship information. Sponsorship information, also known as the authorization statement, is required on most election and assent voting advertising and must include:

- the sponsor's name, or
 - in the case of a candidate or elector organization, the name of the financial agent
- the words "authorized by" in front of the sponsor's or financial agent's name
- a B.C. phone number or B.C. mailing address or an email address where the sponsor or financial agent can be contacted
- in the case of an advertising sponsor, that the sponsor is registered under LECFA

For example:

Authorized by Jane Doe, financial agent, 250-123-4578

Authorized by John Doe, registered sponsor under LECFA, 123 Any Street, Townville, BC V1B 2A3

Authorized by ABC Club, registered sponsor under LECFA, 250-234-5678

Certain types of election and assent voting advertising are exempt from these requirements, including items that may reasonably be considered:

- clothing
- novelty items
- small items of nominal value intended for personal use

For internet advertising that has or would normally have a placement cost, the sponsorship information does not need to be on the ad itself if there is a link that takes the viewer to a website, landing page or profile page that contains the sponsorship information.

NOTE: Campaign and assent voting communications transmitted **before** the campaign or assent voting proceedings period are allowed and do not require sponsorship information.

Election and assent voting advertising on General Voting Day

On General Voting Day, media outlets must not publish, transmit or broadcast election or assent voting advertising until the after close of voting.

Election and assent voting advertising near voting places

Election and assent voting advertising is never permitted within 100 metres of a voting place while voting is being conducted.

Authority to remove unauthorized and restricted advertising

If election or assent voting advertising does not include the required sponsorship information, or is conducted by an unregistered advertising sponsor, Elections BC may require that the advertising be:

- corrected
- discontinued
- covered
- obscured
- removed
- destroyed

Offences and penalties

It is an offence to contravene the election advertising and assent voting advertising sections of the *Local Elections Campaign Financing Act* (LECFA). If convicted, individuals are liable to a fine of up to \$5,000 or imprisonment for up to one year, or both, and organizations are liable to a fine of up to \$10,000.

