

**INTERPRETATION
BULLETIN No.** ESKIB-2019/04

DATE: EFFECTIVE NOVEMBER 1, 2019

SUBJECT JOINT ADVERTISING AND JOINT AGREEMENTS

REFERENCE SECTION 215 AND 260 OF *THE ELECTION ACT, 1996*

Disclaimer

This interpretation bulletin sets out Election Saskatchewan's current interpretation of provisions of *The Election Act, 1996* (the "Act") and are issued to provide assistance and guidance in understanding and complying with the Act. The views expressed in interpretation bulletins are not law and are not intended to replace the official text of the Act. How the Act applies to any particular case will depend on the individual circumstances of that case. Elections Saskatchewan reserves the right to reconsider any interpretations expressed in interpretation bulletins, either generally or in light of the actual circumstances of any case, and in accordance with continuing legislative and judicial developments.

Introduction

This bulletin provides an interpretation of the wording that will be considered acceptable by the Office of the Chief Electoral Officer (the "Office") for joint advertising during an election or a by-election under sections 215 and 260 of *The Election Act, 1996*.

Context

The Act specifies that certain information must be included in election advertising. This information is required so that electors are aware of who is responsible for advertising. The definition of advertising for the purposes of this bulletin is found in section 215(1) of the Act:

215(1) In this section:

- (a) **“advertisement”** means any of the following that refers to any election or promotes the candidacy of a particular person:
- (i) a visual publication, display or representation consisting of images or text;
 - (ii) any audio publication or representation;
 - (iii) any advertisement, hand bill, placard, poster, circular, circular letter pamphlet;
 - (iv) any electronic or digital display;
 - (v) any radio or television broadcast that refers to any election or promotes the candidacy of a particular person;
- (b) **“distribute”** means to do any of the following:
- (i) print, or produce by any other process;
 - (ii) publish;
 - (iii) distribute by mail or otherwise;
 - (iv) post;
 - (v) disseminate or broadcast.

Any advertisement that meets the definition specified in section 215(1) must contain a statement that indicates that the advertisement has been approved by the candidate or the political party. The wording of the statement required can be found in section 215(2) of the Act:

- (2) No person shall distribute or cause to be distributed any advertisement that promotes the candidacy of a particular person unless there is included in, or unless there appears on the face of, the advertisement:
- (a) the statement that the advertisement is “authorized by the business manager for [name of the candidate to which the advertisement relates]”; or
 - (b) if the name of the candidate is clearly indicated on the advertisement, the statement that the advertisement is “authorized by the business manager for the candidate”.
- (3) Subject to subsection (4), no person shall distribute or cause to be distributed an advertisement that refers to an election unless there is included in, or unless there appears on the face of, the advertisement the statement that the advertisement is “authorized by the chief official agent for [name of registered political party to which the advertisement relates].”

Joint Agreement

- 260(1)** A candidate may enter into a written agreement with another candidate or other candidates or with a registered political party for the purpose of jointly incurring candidate election expenses and for paying those expenses.
- (2) A written agreement mentioned in subsection (1) must set out the proportions of election expenses that each party to the agreement may incur and pay.
- (3) Notwithstanding sections 253 to 259, if election expenses are incurred jointly by candidates pursuant to a written agreement mentioned in subsection (1), those expenses may be paid by:
- (a) the business manager of any of the candidates with respect to whom the expenses are incurred; or
 - (b) if the candidates are all endorsed by the same registered political party, the chief official agent of the registered political party as agent of the candidates.
- (4) A business manager or chief official agent who makes a payment pursuant to subsection (3) shall deliver to the other party or parties to the agreement:
- (a) a written statement setting out the amount of the expenses incurred by each of the candidates;
 - (b) supplier documents that state the particulars of each expense; and
 - (c) receipts or cancelled cheques that provide proof of payment with respect to the expenses.
- (5) If a person makes or promises to make a contribution of money, securities or the equivalent of money to the business manager or the chief official agent of a party to an agreement mentioned in subsection (1), on account of or with respect to the election of any one or more of the candidates who are parties to the agreement, the business manager or chief official agent shall deliver a written notice to each of the other parties setting out:
- (a) the amount contributed or promised, the name of the candidates for whom the contribution or promise was made and the amount contributed or promised to each of the candidates; and
 - (b) if the amount contributed or promised is in excess of \$250, the name of the contributor or promisor.

Chief Electoral Officer's Interpretation

To facilitate the regulatory requirements of section 215, Elections Saskatchewan will consider the following joint agreement authorizations to be acceptable when used with respect to joint advertising expenses incurred pursuant to section 260 of *The Election Act, 1996*.

Where the names of the candidates are clearly indicated on the advertisement, the advertisement should bear a statement that it is “authorized by the business managers for the candidates.”

Where **all** the Registered Political Party's candidates for the areas of Regina or Saskatoon are party to a joint agreement for the purpose of advertising, and the names of the candidates are not clearly indicated on the advertisement, the advertising may bear a statement that it is “authorized by the business managers for the [city] [registered political party] candidates.”

Where **all** the Registered Political Party's candidates for the Province as a whole are party to a joint agreement for the purpose of advertising, and the names of the candidates are not clearly indicated on the advertisement, the advertising may bear a statement that it is “authorized by the business managers for all provincial [registered political party] candidates.”

Where only **some** of the Registered Political Party's candidates for the areas of Regina, Saskatoon, or the Province as a whole are party to a joint agreement for the purpose of advertising, and the names of the candidates are not clearly indicated on the advertisement, the advertising must bear the statement that it is “authorized by the business managers for: [Candidate 1], [Candidate 2], [Candidate 3], and [etc.]”.

Where a Registered Political Party and **some** or **all** of the Registered Political Party's candidates are party to a joint agreement for the purpose of advertising, the advertisement must contain that statement that the advertisement is “authorized by the chief official agent for [registered political party] and by the business manager for the [candidate(s)] if the name(s) of the candidate(s) is clearly indicated on the advertisement or “authorized by the chief official agent for [registered political party] and by the business manager for [name of candidate(s)]” if the name(s) of the candidate(s) is not clearly indicated on the advertisement.

EXAMPLES:

Example A

Assume there are 12 constituencies in the Saskatoon area. Four of the Saskatoon candidates for the Fictional Party have created a joint agreement for advertising in the newspaper. The advertisement does not clearly indicate the names of the candidates and would include the statement “authorized by the business managers for: John Doe, Jane Doe, Jack Doe, and Joan Doe.”

Example B

Assume there are 12 constituencies in the Saskatoon area. All 12 of the Saskatoon candidates for the Imaginary Party have created a joint agreement for advertising in the newspaper. The advertisement does not clearly indicate the names of the candidates and would include the statement “authorized by the business managers for the Saskatoon Imaginary Party candidates.”

Example C

Assume there are 11 constituencies in the Regina area. Seven of the Regina candidates for the Fictional Party have created a joint agreement for a television advertisement. The advertisement clearly indicates the names of the candidates and would include the statement “authorized by the business managers for the candidates.”

Example D

The Pretend Party has run 61 candidates in total. All the Pretend Party candidates have created a joint agreement for advertising in the newspaper. The advertisement does not clearly indicate the names of the candidates and would include the statement “authorized by the business managers for all provincial Pretend Party candidates.” This blanket authorization statement is only acceptable when all the candidates running in the election for a given party are participating in the joint agreement. In a case where less than 100 percent of candidates participate in the joint agreement, a statement such as that given in Example A or Example C would be required.

Impact

Elections Saskatchewan will interpret the above examples as satisfying the requirements of sections 215 and 260 of the Act and consider the cost of the above advertisements as being eligible for reimbursement.

Should a registered political party and/or its respective candidates fail to strictly comply with these guidelines and with section 215 and section 260 for joint advertising expenditures, the Office may deny expenditures incurred for such advertising from reimbursement under sections 264 and/or 265 of the Act. A contravention of any provision of the Act is also an offence.

Other References

Political parties and candidates should refer to Interpretation Bulletin ESKIB-2019/01 Party vs. Candidate Expenses to determine if an advertisement expense is an expense for the party or the candidate and to Interpretation Bulletin ESKIB-2019/02 Advertising under Section 215 of *The Election Act, 1996* for further guidance on authorization of advertisements under section 215.

A handwritten signature in blue ink, appearing to read 'Michael D. Boda'.

MICHAEL D. BODA, D.PHIL., PH.D.
CHIEF ELECTORAL OFFICER
PROVINCE OF SASKATCHEWAN

NOVEMBER 1, 2019