



Interpretation Bulletin

**Advisory Guidelines for Members of
Council on Election-Related Issues and
Members' Code of Conduct**

Introduction

This Bulletin is intended to assist Councillors in their participation in the 2010 Municipal Elections. During the election, Councillors are expected to abide by the Code of Conduct, in addition to the provisions of the *Municipal Elections Act*. That responsibility includes ensuring that their staff and volunteers working under their direction also abide by the Code and the *Municipal Elections Act*. Ideally, potential issues and concerns can be identified and addressed in advance. The Office of the Integrity Commissioner is available as a confidential resource for advice. Members are urged to take advantage of this – either by flagging potential situations in advance, or seeking advice on questions relating to the boundaries between their work as Councillors and their role as candidates.

Timing of Complaints

The Code of Conduct Complaint Protocol for Members of Council provides that no complaints may be filed respecting a member seeking re-election during the period starting on Labour Day and ending when a new City Council is deemed organized under the *City of Toronto Act 2006*. I will be reviewing the need to move this date forward given the moving of the last Council meeting from the end of September to August 25 and 26, 2010.

Complaints that are received prior to the moratorium date, in the months preceding the election, will be dealt with as expeditiously as possible. Any Members who have concerns about communications in relation to open or closed investigations with the Office of the Integrity Commissioner are requested to bring those concerns to the attention of the office.

Article VII of the Code of Conduct

The Code of Conduct gives specific guidance about work on election campaigns which applies to all Councillors:

VII. ELECTION CAMPAIGN WORK

Members are required to follow the provisions of the *Municipal Elections Act, 1996*. No member shall use the facilities, equipment, supplies, services or other resources of the City (including Councillor newsletters and websites linked through the City's website) for any election campaign or campaign-related activities. No member shall undertake campaign-related activities on City property during regular working hours unless permitted by City policy (e.g., all candidates meetings). No member shall use the services of persons for election-

related purposes during hours in which those persons receive any compensation from the City.

Reference: *The Code of Conduct for Members of Council*:
http://www.toronto.ca/city_council/pdf/members_code_conduct.pdf

Donations to Member-Organized Community Events

Authority: Council Decision on Integrity Commissioner Report to Executive Committee, EX22.6 “Report on Issues Arising Out of Operation of Members Code of Conduct and Complaint Protocol”, at Council meeting of July 16, 17 and 18, 2008.

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In an election year, a Member of Council must not seek donations and sponsorships for any community event that has not been staged in the previous two years nor accept donations or stage any community event supported by donations and sponsorships after he or she has filed nomination papers for election to any office in the City of Toronto.

A community event is considered to have been staged in the previous two years if it meets the following criteria:

- has a very similar, if not the same, event name/title
- takes place at approximately the same time
- has the same general purpose

Use of Corporate Resources During an Election Year

The Councillor Expense Policy, Section 4.7, includes detailed requirements regarding the use of corporate resources during an election year. Some requirements apply through the election year while other requirements apply after Labour Day.

Councillors should consult the City Clerk or the Director of Council and Support Services concerning these requirements.

For your reference, the link to the policy on the internet is:
http://www.toronto.ca/city_council/pdf/councillor-expense-policy.pdf

Human Resources Policies – Employee Seeking Participation in Municipal Election Campaigns and Employee Seeking Election to Political Office.

Members of Council should remind their staff about the Human Resources policies which relate to elections.

These policies are available on the intranet at:

<http://wi.toronto.ca/intra/hr/policies.nsf/9fff29b7237299b385256729004b844b/65b7b2a823965ea085256944005b5a7c?OpenDocument>

<http://wi.toronto.ca/intra/hr/policies.nsf/9fff29b7237299b385256729004b844b/16093429d6c1c208852573530064fbbb?OpenDocument>

Examples of Decisions Made by the Integrity Commissioner During Elections

These examples provide Councillors and their staff with some perspective on the kinds of decisions made by the Office of the Integrity Commissioner during elections in the past.

Issue: Publication of a City Hall Newsletter as “Campaign-Related” Activity

A Councillor was alleged to have violated the *Code of Conduct for Members of Council* by using the resources of the City for an “election campaign or campaign-related activity” when the Fall 2006 City Hall Newsletter was in substance a document in support of the 2006 campaign for re-election as Councillor. Because staff worked on this brochure while the City was paying them and a claim was made for the costs of producing this newsletter from the Council Member’s Office Budget, Clause VII was said to have been violated.

Decision:

The newsletter did not announce or illustrate an indication of the Councillor’s re-election. It was produced and distributed prior to the election. Most importantly, despite the fact that it contained an extensive list of the Councillors, the Police Services Boards and Council’s accomplishments over the previous three years, it was not directly election-related. The document in part amounted to an accounting for the Councillor’s activities over the past three years, an accounting perfectly in order in a newsletter, irrespective of whether the Councillor was running for re-election. It also contained a number of references to important developments at or affecting the City over the past few months and since the distribution of a previous newsletter. It was a legitimate use of City resources on the basis of its recent events content and a legitimate accounting of the Councillor’s previous three years as a Councillor.

Issue: Election Sign Business and Use of City of Toronto E-Mail

Two complaints were filed, one by a candidate running in the 2006 Municipal Election that a Councillor violated Clause VII (“Use of City Property, Services and Other Resources”) by conducting an election sign business using City of Toronto email services.

Decision:

The Councillor involved wrote a letter of apology to the Director, Council and Support Services, copied to the City Clerk, the Director, Elections and Registry Services and the Integrity Commissioner, and shared with the complainant his response to the complaint stating that he had acted improperly and regretted the oversight.

For a member of Council to create the impression in the minds of reasonable people that he or she may be running a business out of that member’s City Hall office is a serious lapse of judgment and a lack of awareness of current Council policies on such matters. It is conduct that could well lead some candidates to actually contract for the advertised services in the expectation in the event of success at the polls of future alliances with and goodwill from an influential

member of Council. It was recommended in the Report to Council that Council uphold the complaint but not impose any sanctions.

Issue: Frivolous Allegations in an Election Context

A candidate alleged that a Councillor improperly used the influence of his/her office to pressure staff to remove election signs put up by opponents in the 2006 Municipal Election campaign, and placed undue pressure on members of the Toronto Police Services to lay charges against a person caught removing his/her election flyers. The complainant asserted this was contrary to the terms of one of the key statements of principle in the Preamble to the *Code of Conduct*. As the statements did not create stand alone *Code of Conduct* offences, the complaint was treated as having been brought under Clause XII of the *Code of Conduct* (“Conduct Respecting Staff”).

Decision:

The candidate ran unsuccessfully against the Councillor in the 2006 Municipal Elections. Following the elections, he/she filed two complaints against the Councillor with respect to his/her conduct during the Election campaign. Councillors should not be called upon to answer such allegations unless the affidavit and additional material filed in support of a complaint reveal sufficient detail of the alleged course of events to provide a factual basis for the Integrity Commissioner to conclude that an investigation is warranted. Neither of the allegations met that standard. All of the assertions were based on what was heard from others and no details provided. There was no statement from the campaign worker, and email communications contained no information as to the basis on which the Councillor had used inappropriate pressure on staff. The complainant was given the opportunity to provide additional information and did not meet the deadlines provided. Therefore, the complaint was dismissed as frivolous, vexatious or not made in good faith.

Issue: Conduct of an Incumbent Member of Council on Election Day

A Deputy Returning Officer in the 2006 elections made a complaint against a Member of Council respecting the behaviour of that Councillor and a staff member on election day at the polling station at which the complainant was working. More specifically, the complainant asserted that the member of Council violated Clauses VII (“Election Campaign Work”), XII (“Conduct Respecting Staff”) and XIV (“Discreditable Conduct”) of the *Code of Conduct*.

Decision:

The behaviour of an incumbent Member of Council at a polling station on election day is a matter that comes within the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Sch., and subject to the jurisdiction of the City Clerk as the person responsible. The City Clerk was instructed as per Clause 2(3) of Part B of the *Code of Conduct Complaint Protocol* to advise the complainant of this in writing.

Issue: Discreditable Conduct During an Election

A Member of Council running for re-election complained that another Councillor violated the *Code of Conduct* by engaging in discreditable conduct contrary to Clause XIV of the *Code of Conduct*. More particularly, it is alleged that the Councillor treated the Member unfairly by asserting in a voice mail message left on a general voice mail messaging system that the Councillor was currently under police investigation.

Decision:

The Councillor admitted leaving the voice mail message that gave rise to the complaint and that there was no basis for the contention that the Member was being actively investigated by police. To leave such a voice mail message on the voice mail messaging system constituted “discreditable conduct” under Clause XIV of the *Code of Conduct* and it was recommended to Council that it request the Councillor to make a full, unconditional written apology and if refused recommended that the Councillor be formally reprimanded.

For questions on any matters relating to the Code of Conduct and the election or other policies that Councillors should be aware of during an election year, please contact the Office of the Integrity Commissioner at 416-397-7770 or email: jleiper@toronto.ca.