

## 2023 Mayoral By-Election Requirements

### Purpose

1. On February 15, 2023, Mayor John Tory submitted his resignation to the City Clerk, effective 5:00 p.m. on February 17, 2023. At the Council meeting on March 29, 2023, Council subsequently declared the Office of Mayor vacant and passed a bylaw authorizing a by-election to be held on June 26, 2023 to fill the vacancy. Council also adopted CC5.2 “Amendments to Existing Policies Related to Services to Members During an Election Period” (as amended).
2. This Interpretation Bulletin reminds members of Council (“members”) of their obligations under the [Code of Conduct for Members of Council](#) (the “Code of Conduct”) and how to separate their work as members from their political activities in the upcoming by-election.
3. In addition to referring to this bulletin, members should consult the Integrity Commissioner for confidential advice when they have specific questions about the Code of Conduct. The public and media are also invited to contact the Integrity Commissioner for general information about the requirements in the Code of Conduct but opinions about whether or not someone has complied with these requirements will not be provided as such findings can only be made if an investigation is conducted.

### Application of the Code of Conduct and MCIA

4. During the by-election, the Code of Conduct and the [Municipal Conflict of Interest Act \(MCIA\)](#) apply to their activities as members and the Integrity Commissioner will continue to provide confidential advice and answer inquiries.
5. Unlike the 2022 municipal election, the Integrity Commissioner can receive and investigate new Code of Conduct complaints and MCIA applications during the by-election. However, it is unlikely these inquiries can be completed and reported on before Voting Day. Inquiries into Code of Conduct complaints and MCIA applications commenced before February 17, 2023 may be completed and reported on before Voting Day.
6. In addition to Article 7 (Election Campaign Work), the Code of Conduct requires members to comply with election laws, City policies and the other requirements in the Code of Conduct that include rules concerning how their work as members is separated from their political activity.

## Legislation, Policies and Guides

7. Members should review the [Municipal Elections Act, 1996](#) and the guides and resources provided by [Toronto Elections](#).
8. Additionally, members need to be aware of the rules regarding mayoral by-elections in the following City policies:
  - [Use of City Resources during an Election Period Policy](#) (sections 1 to 4 apply to all members; section 5 only applies to members who have publicly declared they intend to run or have filed their nominations – see **Appendix**)
  - [Constituency Services and Office Budget Policy](#) (section 4.7b only applies to members who have publicly declared they intend to run or have filed their nominations – see **Appendix**)
  - [Human Resources Management and Ethical Framework for Members' Staff](#)
  - [Corporate Facilities Display and Fundraising Policy](#)
  - [Corporate Identity Program](#) (intranet only)
9. The [Council Member Knowledge Base](#) provides detailed information about the requirements in these materials.

## Key Reminders

10. As the Code of Conduct's Preamble advises, members must arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny. A vacancy in the Office of the Mayor and a subsequent by-election period is a time of heightened public scrutiny. Accordingly, members and their staff need to establish a clear separation between their election-related activities and their official duties.
11. To maintain this clear separation, members need to follow the election-related rules about:
  - Using City Resources and Other Restrictions
  - Communicating with the Public
  - Managing Members' Staff
  - Working with City Staff
  - Using Social Media and Updating Webpages
  - Interacting with Lobbyists

## Reminder #1: Using City Resources and Other Restrictions

12. Members must not use City resources to support election-related activities whether for their own campaign, the campaign for another candidate or a campaign for a third-party advertiser. A comprehensive set of requirements describe the limits on what their offices can do and what they can spend their office budgets on. These rules are found in:
  - Article 7 (Election Campaign Work), Code of Conduct
  - [Use of City Resources during an Election Period Policy](#) (sections 1 to 4 apply to all members; section 5 only applies to members who have publicly declared they intend to run or have filed their nominations – see **Appendix**)
  - [Constituency Services and Office Budget Policy](#) (section 4.7b only applies to members who have publicly declared they intend to run or have filed their nominations – see **Appendix**)
  - [Corporate Facilities Display and Fundraising Policy](#)
13. The term "City resources" has a broad meaning. Under the [Use of City Resources during an Election Period Policy](#), it includes the defined terms "City employees," "City events," "City facilities," "City funds," "City information," and "City infrastructure." City resources also include:
  - the use of City email accounts (e.g. "@toronto.ca" email addresses);
  - the City-paid work of members' staff;
  - websites funded by the Constituency Services and Office Budget ("CSOB");
  - publications or online content produced using the CSOB;
  - City-issued computers, mobile devices, smartphones or tablets;
  - City-funded mobile devices or smartphones;
  - members' office space at City Hall, a civic centre or a constituency office; or,
  - any privilege or benefit available to a member owing to their status as a member of Council.
14. Members may attend City events, and may act as ceremonial participants, but may not campaign or disseminate election materials under the [Use of City Resources during an Election Period Policy](#).
15. For Environment Days, this means that:
  - Members running for election as Mayor should not plan new Environment Days and review with the City Manager's Office how those Members' Environment Days, announced before March 29, 2023, will operate.
  - Members should not organize campaign activities to coordinate with an Environment Day in any Ward.

- If a resident requests campaign information at an Environment Day, they should be informed that the event is unrelated to the campaign, and that no campaigning can occur at the event.
- Members and staff should not hand out any campaign literature at an Environment Day.

## **Reminder #2: Communicating with the Public**

16. Members' offices should not be answering election-specific inquiries (e.g. "where do I vote?" or "where can I get a lawn sign?") and, depending on the question, may in response refer the question to either Toronto Elections or the contact information for their election campaign or the election campaign of someone else running for Mayor.
17. The requirements in Article 5 (Confidential Information) apply to a member's election activities. Members must not use the contact information they have obtained in their official role dealing with constituents for election-related activities. Constituent contact list information obtained in their official capacity should not be provided to a member's election campaign team. Members who maintain contact lists from their previous election campaigns, or from other private activities outside their office, must keep the collection and storage systems separate from City resources.

## **Reminder #3: Managing Members' Staff**

18. Members should provide this Interpretation Bulletin to their staff and review its guidance with them. Members' staff are considered City of Toronto employees and, even though they are not subject to the Toronto Public Service By-law, are subject to the requirements of the Human Resources Management and Ethical Framework for Members' Staff and other City policies.
19. Members' staff should not engage in election-related activities:
  - at any time using City resources (e.g. using smartphones, computers or office supplies);
  - during their working hours as City of Toronto employees; or,
  - at any time from the member's office at City Hall, a civic centre or from a constituency office.
20. Election-related activities include assisting with organizing campaign events, responding to campaign-related inquiries or developing election communications and other promotional content for use in a campaign.
21. Both members and their staff are required to ensure that staff are not engaged in election-related activity during their working hours as City of Toronto employees.

22. If a member's staff person wishes to work or volunteer on a campaign, including a campaign for a registered third-party advertiser, the member must document and monitor when the staff person is working on election-related activities and when they are performing their duties as a City of Toronto employee.
23. During what would normally be their working hours, if a member's staff person is working for a candidate or third-party advertiser in the by-election, that person may only do so if their absence from work is approved by the member as:
  - a) vacation time;
  - b) lieu time;
  - c) float days;
  - d) an unpaid leave of absence; or,
  - e) a combination of the above.
24. If a member's staff person is a candidate in the by-election, that staff person must be approved by the member to take an unpaid leave of absence or must resign from the member's office.

#### **Reminder #4: Working with City Staff**

25. Members must be aware that City and agency staff must comply with the political activity requirements in the Toronto Public Service By-law.
26. City and agency staff must not be asked to:
  - support election-related activities;
  - assist with producing campaign materials;
  - appear in campaign materials; or,
  - assist with, or participate in, any activities that are contrary to City policies that apply to elections and political activity.
27. Members must not use or try to obtain information for by-election related purposes that would not be ordinarily available and accessible to the public. When requesting information from City staff for by-election related purposes, members and their staff must be clear they are not requesting the information in their official capacity but as, or on behalf of, a candidate and the request should not be made using City resources.

## Reminder #5: Using Social Media and Updating Webpages

### Social Media

28. Members should be familiar with the Integrity Commissioner's *Use of [Social Media by Members of Council Interpretation Bulletin](#)*.
29. A member must not use a social media account that identifies them as "Councillor" or is supported by City resources, to post content promoting any candidate in the by-election.
30. The Integrity Commissioner recommends that members running for Mayor maintain dedicated social media accounts for their campaign activities.
31. If a member wishes to "convert" a social account that identifies the member as a member of Council or uses City resources, to one used for campaign purposes, specific actions (e.g. notification to followers and removal of the title "Councillor") are required before the member files their nomination papers and they should seek advice from the Integrity Commissioner.

### Websites

32. Members cannot convert an existing website, which has been registered, designed or maintained using City resources, to an election campaign website.

## Reminder #6: Interacting with Lobbyists

33. Members and their staff should review the [Lobbying By-law](#) and consult the [Lobbyist Registrar](#) if they have any questions.
34. Members should be aware that while a lobbyist may contribute to candidate and third-party advertising campaigns in accordance with the *Municipal Elections Act, 1996*, they may not do so as a form of lobbying about an issue to be decided by City Council, in accordance with Article 13 (Conduct Respecting Lobbyists) of the Code of Conduct.
35. Members should be aware that, if they receive a contribution which is not permitted by law under the *Municipal Elections Act, 1996* or the Lobbying By-law, it may be deemed an impermissible gift and therefore contrary to Article 4 (Gifts and Benefits) of the Code of Conduct.

## Interpretation

36. This bulletin provides guidance with respect to the 2023 mayoral by-election and the applicable legislation, City bylaws and policies and the Code of Conduct. In the event of any inconsistency, the requirements in legislation, City bylaws and policies and the Code of Conduct govern.

# Contact Information

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<b>Issue Date</b>	April 14, 2023
<b>Version</b>	1.1
<b>Notes</b>	This bulletin only applies to the 2023 mayoral by-election and replaces and supersedes the interpretation bulletin issued on March 10, 2023 to reflect policy changes adopted by Council on March 29, 2023.

## APPENDIX

### **Use of City Resources during an Election Period Policy**

#### **Applicable restrictions to services provided to Members of Council who have publicly declared they intend to run or have filed their nomination in the 2023 Mayoral By-Election**

The City will discontinue the following activities:

- All forms of advertising and communication, including in municipal publications and social media accounts, that are paid for by City funds or operated and distributed by the City will not reference the name or image of the Member of Council.
- Signage for City events, including banners and posters, will not reference the name of the Member of Council.
- The City's media releases or materials will not reference the name of the Member of Council. Where the City would typically name a specific Member of Council in its communications or media materials during an election period, it will make reference to the generic term "Councillor Ward XX" without naming the specific Member of Council. This practice will be used for all City programs, events, announcements and to ensure effective communications with residents and businesses with respect to operational requirements, impacts or emergency situations.
- The City Manager's Office or the Clerk's Office will need to be consulted about issuing ceremonial documents such as retirement scrolls for employees, scrolls in celebration of anniversaries, Letters of Greeting and other celebratory documents. While normally signed and distributed by Members of Council, the alternative provided in the policy is that they are signed by the Mayor as the Chief Executive Officer of the City. As the office of Mayor is vacant, the City Manager's Office or the Clerk's Office will need to be consulted about how these documents are signed and mailed to the recipient(s).

### **Applicable requirements from Section 4.7b of the Constituency Services and Office Budget Policy**

Until June 27, 2023, once a member has publicly declared they intend to run or have filed their nomination in the 2023 Mayoral By-Election, that member is not permitted to:

- Place any advertisement in newspapers, magazines, other publications or websites, even though the ad placement itself may have been made prior the public declaration or filing of the nomination.



- Organize any community events in their wards including movie nights, picnics, environment days, community celebrations, BBQs, etc.
- Use external resources paid by City funds to:
  - Update their existing personal Council member website.
  - Perform website maintenance.
  - Create and post YouTube videos.
  - Create, monitor or manage Facebook accounts or use other social media tools.
  - Distribute electronic newsletters including mass e-mails.
  - Pay for any new domain name for websites or pay for any web design services.
  - Conduct or authorize any automated phone campaigns, such as robocall or any similar automated virtual townhalls.
  - Print and distribute any newsletter to constituents.
  - Print and distribute any flyers to constituents, except in the case of emergencies.
  - Order any new stationery, including business cards, envelopes or letterhead for their office in large quantities.
  - Order new furniture or purchase office equipment, including computers or other computer accessories.
  - Trade furniture with other Council members.
  - Attend any conferences or seminars other than those held by an inter-governmental organization such as FCM as a Board or Committee member.
  - Purchase any gifts or promotional items for constituents, including greeting cards.
  - Purchase any tickets for community events or functions.
  - Order any congratulatory scrolls from the Strategic Protocol and External Relations Unit.