
Chapter 3:

RULES OF ENGAGEMENT FOR NONPROFIT ADVOCACY

Before engaging in public policy advocacy, nonprofits should make sure they understand the rules and regulations around what they can and cannot do, so that they can engage with clarity and confidence. Knowing the rules can empower your organization to lead and encourage important discussions.

An election is a great opportunity to advocate for public benefit. As our friends at the [Ontario Nonprofit Network](#) say, “Don’t be intimidated by rules and regulations about what charities and nonprofits can do during elections. Get informed!”¹⁹ The first steps to becoming informed, involve the understanding of three relevant regulatory areas:

1. Canada Revenue Agency Regulations
2. Lobbying
3. Third-Party Advertising

These areas may or may not apply to your nonprofit, depending on whether you are a registered charity, if you have paid staff, and how much you spend on election-related activities.

Canada Revenue Agency's Regulations for Charities

Nonprofit organizations that are federally registered as charities must adhere to the Income Tax Act (ITA) regulations, as interpreted and applied by the Canada Revenue Agency (CRA). Recent amendments to the ITA allow registered charities to engage in unlimited public policy dialogue and development activities (PPDDAs), so long as these activities are:

- related to and support the organization's stated charitable purpose(s) and,
- nonpartisan (this includes a ban on both direct and indirect partisanship).

PPDDAs generally involve seeking to influence the laws, policies or decisions of a government, whether in Canada or a foreign country. In light of the new changes, charities must still be created and operated exclusively for charitable purposes. Only nonprofit organizations that are registered charities need to adhere to these regulations.

Direct and Indirect Partisanship

A registered charity can publicly support or oppose a law, policy, or decision of government that a political party or candidate also supports or opposes. A charity can do this at any time, inside or outside of an election period, so long as the charity does not refer to the political party or candidate. Thus, a charity's communications should focus on policy issues and should not refer to any candidate or political party.²⁰

Non-partisanship does not mean non-participation. There are many ways that registered charities can engage in nonpartisan election-related activities. Furthermore, the ability to engage in nonpartisan advocacy can be viewed as a strength for organizations, as it can work to:

- Create an environment of respect for the diversity of political opinions among staff, volunteers and people whom your charity serves.
- Give you access to diverse community leaders and funding sources.
- Reaffirm nonprofits' position as trusted sources that can engage with and give voice to underserved populations and topics, beyond party lines.²¹

As Canadian citizens, staff and volunteers have a right to participate in the democratic process.²² This means, as individuals, they are not bound to nonpartisan dialogue – as long as they are not acting in their official capacities as representatives of a registered charity. Check with your organization regarding any conflict of interest policies that may exist.

To avoid partisan engagement during your advocacy efforts, consider the following dos and don'ts.

Do:

- ✓ focus on the charitable purposes that your PPDDAs are meant to achieve.
- ✓ keep records that demonstrate your primary consideration in carrying on PPDDAs is to further your charitable purpose and provide a public benefit.²³
- ✓ review legal requirements of other legislation such as Canada Elections Act and Lobbying Act.
- ✓ give all political candidates and parties an equal opportunity to present their views and answer questions.

Don't:

- ✗ focus on, promote or oppose a political candidate or party publicly or internally.
- ✗ instruct or influence constituents to vote for a specific candidate or party.
- ✗ work with or coordinate with campaigns, political candidates or parties.
- ✗ transfer resources (ex. financial, human, or physical resources) to support or oppose a political party or candidate directly or through a third party, or allow a political party or candidate to use your charity's resources without compensation.
- ✗ refer to or identify a political party or candidate when supporting or opposing a law, policy, or decision of government.

For more information on CRA's draft guidance documents and examples of direct and indirect partisanship visit [here](#).²⁴ Please click [here](#) for Explanatory Notes Relating to the Income Tax Act Legislation.²⁵

Lobbying in Canada

Lobbying is a legitimate activity in a free and democratic society. Lobbyist regulations are meant to balance free and open access to government with public transparency as to who is accessing and seeking to influence government.

The Federal government defines lobbying as communication with public office holders*, for payment, with regard to:

- The making, developing or amending of federal legislative proposals, bills or resolutions, regulations, policies or programs.
- The awarding of federal grants, contributions or other financial benefits.
- In the case of consultant lobbyists, the awarding of a federal government contract and arranging a meeting between their client and a public office holder.²⁶

Consultant and In-House Lobbyists

A nonprofit can engage two types of lobbyists:

1. **Consultant lobbyist:** A person who is hired to communicate on behalf of a client. This individual may be a professional lobbyist but could also be any individual who, in the course of his or her work for a client, communicates with or arranges meetings with a public office holder. Consultant lobbyists are required to register with the Office of the Commissioner of Lobbying within 10 days of being retained as a lobbyist for a client.²⁷
2. **In-house lobbyist:** A person who works for compensation in a nonprofit entity. Nonprofits must file a registration when lobbying activities constitutes a significant part of one or more of its employees' duties.²⁸ In-house nonprofit lobbyists must register within two months of the beginning of their lobbying activities.²⁹

* Federal public office holders are virtually any employee of the federal government, whether elected or appointed. This broad category includes Members of Parliament, Senators, parliamentary staff, members of the Canadian Armed Forces and the Royal Canadian Mounted Police, and federal government employees.

Grass-Roots Communications

Grass-roots communication occurs when a person appeals to members of the public through the mass media, including social media, or by direct communication. The appeal is meant to persuade the public to communicate directly with a public office holder in an attempt to place pressure on the public office holder to endorse a particular opinion. Paid lobbying through grass-roots communication may require registration, even if there is no direct communication with public office holders. For example, if you invite the public to write to their Members of Parliament about an issue, you may be lobbying.³⁰

You do not need to register as a lobbyist if you are:

- a volunteer, as they are not paid to communicate with public office holders.
- making a written submission to a parliamentary committee.
- making a request to public office holders for information or for the interpretation of a Canadian law.
- a citizen communicating with government officials on behalf of yourself.

Click [here](#) to see if you are required to register as a lobbyist.³¹



Third-Party Advertising in Canada

A third party is a person or group who wants to participate in or influence elections other than as a political party, electoral district association, nomination contestant or candidate. The Canada Elections Act regulates the registering and reporting requirements of third-party advertising at the time of an election.

Nonprofits must register with Elections Canada as a third-party immediately after spending \$500 or more on 'regulated activities' that take place during the pre-election period or election period. Click [here](#) to view associated spending limits.³²

Regulated Activities

'Regulated activities' is an umbrella term for partisan activities, election surveys, partisan advertising, and election advertising. The following is a more detailed description of each of the regulated activities:

1. **Partisan activities** are activities carried out by a third party that promote or oppose a political party, nomination contestant, potential candidate, candidate or party leader. This **does not include** taking a position on an issue with which the party or person is associated. Note: activities to fund raise for a third party are excluded from partisan activities.
2. **Election surveys** Election surveys are surveys designed and conducted (or caused to be conducted) during the pre-election or election periods by third parties to determine whether or not to organize and undertake other regulated activities. The survey could be about voting, or about an issue with which a registered party or candidate is associated. For example, an election survey **could include** conducting a telephone survey in a riding to collect information about voting intent and using the results for targeted door-to-door canvassing.
3. **Partisan advertising** is defined as the transmission to the public by any means during the pre-election period of an advertising message that promotes or opposes a political party, nomination contestant, candidate or party leader. This **does not include** taking a position on an issue with which the party or person is associated.
4. **Election advertising** is defined as the transmission to the public by any means during the election period of an advertising message that promotes or opposes a registered party or candidate, **including** by taking a position on an issue with which the party or person is associated. Therefore, you may be regarded as a third-party advertiser even if your communications are not explicitly linked to any party.

The Pre-Election Period and the Election Period

The pre-election period starts on June 30 in the year of a fixed-date general election and ends on the day before the general election is called. The election period starts on the day the election is called and ends on election day when the polls close. Nonprofits can undertake any of the pre-election or election regulated activities so long as there is appropriate registration and reporting.

Nonprofits that are registered charities should only consider undertaking election surveys and non-partisan election advertising as they are not permitted to engage in other registered activities because they are considered partisan political activities. It is important to note that once the election period begins, the categories of regulated activities and advertising broaden to catch non-partisan election advertising, including issue-based advertising. Registered charities that engage in issue-based advertising should be monitoring related expenses and reporting as needed.

Click [here](#) to view Elections Canada Third Party Roadmap resource.³³ Click [here](#) for a video resource on registering as a Third Party.³⁴ For more information about registering, click [here](#).³⁵

FEDERAL RULES OF ENGAGEMENT: POLICY ADVOCACY			
REGULATORY AREA	REGULATION	APPLIES TO	DOES NOT APPLY TO
CRA Regulations	Charities can engage in unlimited public policy dialogue and development activities, so long as these activities further their charitable purpose(s) and do not involve the direct or indirect support of, or opposition to, any political party or candidate for public office.	Registered charities.	All other nonprofits (not registered charities).
The Lobbying Act	Must register if in-house cumulative lobbying activities constitutes a significant part of one or more of your employees' duties.	All nonprofits including registered charities.	N/A
Canada Third-Party Advertising	Must register immediately if \$500 or more has been spent on: partisan activities, election surveys, partisan advertising, and election advertising in the pre-election or election period.	All nonprofits including registered charities as it relates to election surveys and issue-based election advertising.	Partisan activities and partisan advertising do not apply to registered charities.

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