

SECTION: Governance
SUBJECT: Election Communication Policy

08-02

The Special Areas Board is a public agency under the *Financial Administration Act* which must comply with legislative restrictions on advertising and other communication activities as per the *Election Act*.

Failure to comply with these legislative restrictions can result in the removal of the advertising, publication of the offence, administrative penalties and/or prosecution under the *Election Act*, which carries a fine of up to \$5,000 or a prison term of up to one year.

The policy applies to any activity – whether traditionally considered to be a communications activity or not – which directly or indirectly makes information about Special Areas Board programs or activities generally known during an election.

While exemptions to communications restrictions exist, Special Areas Board employees must work from an assumption their communications activity during an election is not approved unless it has been reviewed for compliance with the *Election Act* and has been approved by the Chair. Exemptions should be used sparingly.

Generally, communications activity should be postponed until the end of an election period wherever possible.

TIME PERIOD COVERED

Election Act restrictions on the Special Areas Board begin with the dropping of the writ for a general election or by-election and conclude at the end of polling day (the day the vote takes place). This is generally described as the “election period.” Elections are held on a day chosen by Cabinet between March 1 and May 31 every four years. An election period is 28 days.

A by-election occurs when a seat becomes vacant between general elections. The timing of a by-election is controlled by Cabinet but, as per the *Legislative Assembly Act*, must be called within six months of the Chief Electoral Officer being informed of the vacancy.

Restrictions are on materials being in market. There is no “grace period” to remove materials from market when an election is called. Restricted communications activity in-market when a writ is dropped must be pulled from market until the end of polling day.

IMPACTED ACTIVITIES

During a general election period, the Special Areas Board must not advertise or publish any information about its programs or activities unless such communications activity falls under one of the legislated exemptions.

During a by-election period, the Special Areas Board must not advertise or publish any information about its programs or activities that has a disproportionate impact on voters in impacted electoral divisions – unless such communications activity falls under one of the legislated exemptions.

Elections Alberta has provided guidance they consider “advertise or publish” to cover any direct or indirect action that makes something generally known.

The use of the name, voice or image of an individual who was an MLA before the dropping of the writ in any communications during an election period is not allowed. This includes communications allowed under one of the legislated exemptions.

During a by-election, the use of the name, voice or image of an individual who has been appointed to Cabinet but is not an MLA is not allowed. This includes communications allowed under one of the legislated exemptions.

LEGISLATED EXEMPTIONS

There are five exemptions to restrictions on advertising and publishing available, four for all election periods and one for by-elections.

1. The advertisement or publication is required by law.
2. The advertisement or publication is required at that time to solicit proposals or tenders for contracts or applications for employment.
3. The advertisement or publication is required at that time to inform the public on matters of public health or safety.
4. The advertisement or publication is a continuation of earlier advertisements or publications and is required for ongoing programs.
5. (BY-ELECTION) During a by-election, communications may continue but such communications cannot have a disproportionate impact on the electoral district where the by-election is occurring.

The *Election Act* provides an exemption for advertisements or publications that are a continuation of earlier advertisements or publications **and** are required for ongoing programs. **Claiming of this exemption requires the program to meet both criteria.**

It is the interpretation of the Special Areas Board that an advertisement or publication is continuous if:

- It is the same advertisement/publication as one that was previously in market/available.
- It is an advertisement/publication that is part of a broader campaign, and is comparable in aesthetic, tone and scale to what was previously in market/available.



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POLICY

- It is an advertisement/publication that is recurring based on time of year (or similar trigger), has run before, and can be shown to have been previously planned to run during this time.

It is the interpretation of the Special Areas Board that an advertisement or publication can be considered required if:

- ongoing programs would fail or could not continue without the advertisement/publication, and
- no reasonable mitigations are available to meet program objectives without advertising or publishing.

A handwritten signature in blue ink, appearing to read 'Jordon Christianson'.

Jordon Christianson
Chair, Special Areas Board

Board Motion
05-04-19