

BOARD OF DIRECTORS ELECTION CAMPAIGNING REGULATION



icccrc
IMMIGRATION CONSULTANTS OF
CANADA REGULATORY COUNCIL
crcic
CONSEIL DE RÉGLEMENTATION DES
CONSULTANTS EN IMMIGRATION DU CANADA

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Table of Contents

1. AUTHORITY	4
2. DEFINITIONS.....	4
3. ELECTION AND CAMPAIGN CYCLE	5
4. CONDUCT	5
5. CAMPAIGN PERIOD AND PROMOTIONAL MATERIAL	6
6. MEMBERSHIP LIST.....	7
7. E-MAIL MESSAGES	8
8. IN-PERSON CAMPAIGNING	9
9. VOTING	9
10. COUNTING BALLOTS	9
11. TIE RESULTS.....	10
12. ANNOUNCING THE RESULTS.....	10
13. PENALTIES FOR CAMPAIGNING OFFENCES.....	10

1. AUTHORITY

- 1.1. This Regulation is enacted pursuant to sections 3.1 and 46 of the By-law of the Council.
- 1.2. In the event of any conflict between the English version and the French version of this Regulation, or between this Regulation and the Council's By-law, the English version of the By-law shall govern.
- 1.3. The Corporate Secretary shall act as the Election Officer for all operational matters relating to campaigning and voting in a Board of Directors' election.
- 1.4. Complaints of alleged election campaigning misconduct are independent of, and do not oust the simultaneous or alternative application of the *Code of Professional Ethics*, including without limitation, Sections 4.2 and 4.3, thereof.

2. DEFINITIONS

- 2.1 In this Regulation, capitalized terms, unless otherwise defined herein, have the same meaning as they do in the By-law or the *Code of Professional Ethics*.
- 2.2 In this Regulation:
 - a) **"Calming Days"** means the calendar days announced by the Election Officer which fall between the last day of the Campaigning Period and the first day that votes may be cast by Members for candidates, during which no campaigning may take place.
 - b) **"Campaigning Period"** means the 36 calendar day period announced by the Election Officer during which candidates may campaign for election to the Board of Directors.
 - c) **"Election Campaign"** means the time period beginning with the publication of the slate of qualified candidates and ending with the last day on which Members may cast their votes for candidates.
 - d) **"Election Campaigning"** means campaigning for any candidate during the Election Campaign.
 - e) **"Messaging"** means sending to Members, directly or indirectly, by any means or media, information, statements, opinions or questions which could reasonably be expected to influence voting in a Board of Directors election.
 - f) **"Person"** means an individual, a corporation, a partnership, a trust or an unincorporated organization.
 - g) **"Voting Period"** means the seven (7) calendar days announced by the Election Officer during which Members may cast votes for candidates for election to the Board of Directors, during which no campaigning may take place.

3. ELECTION AND CAMPAIGN CYCLE

- 3.1. The Board of Directors election and campaign cycle consists of the following milestones and events:
- a) In accordance with Section 45.2 of the By-law, a call for nominations is issued to all Members in good standing no less than 120 calendar days in advance of the Annual Meeting.
 - b) Thirty (30) calendar days after the call for nominations is issued, nominations close and the Election Officer reviews all submitted nominations to ensure they are complete and correct.
 - c) Candidates whose nomination submission is not complete and correct are given fourteen (14) calendar days in which to resolve any deficiencies.
 - d) The Governance and Nominating Committee (GNC) receives a report from the Election Officer concerning all submitted nominations and declares qualified or not each candidate who submitted a nomination.
 - e) The Election Officer publishes a slate of qualified candidates who are eligible to seek election or are acclaimed.
 - f) The Election Officer announces the Campaigning Period.
 - g) The Election Officer announces the Calming Days, during which campaigning may not take place.
 - h) The Election Officer announces the Voting Period, during which campaigning may not take place.
 - i) The Election Officer arranges a candidates-only teleconference prior to the commencement of the Campaigning Period for the purpose of candidates introducing themselves to the other candidates and to review in detail this Regulation.
 - j) The Election Officer confidentially notifies each candidate if he/she was elected or not.
 - k) The Election Officer announces the election results at the Annual Meeting.

4. CONDUCT

- 4.1. All election campaigning shall be conducted in accordance with the By-law, *Code of Professional Ethics* and this Regulation.
- 4.2. During an Election Campaign in a Board of Directors election, no Person shall:
- a) knowingly or recklessly engage in false or misleading Messaging about a candidate or

the Council which could reasonably be expected to influence voting in a Board of Directors election;

- b) organize, participate in, or support false or misleading Messaging about a candidate or the Council;
- 4.3. Any Member or the Council on its own motion, may complain to the Election Officer that Messaging being distributed by or on behalf of another Member is in contravention of Sections 4.1 or 4.2 of this Regulation. Upon receiving any such complaint the Election Officer shall ask any Member who may be responsible for such distribution to demonstrate to the Election Officer's satisfaction within five (5) business days that the Messaging is neither false nor misleading, failing which, the Election Officer may order the Member:
- a) remove the contravening material from distribution immediately, and
 - b) to issue, immediately, a retraction to all the same persons to whom the original Messaging was distributed.
- 4.4. Failure to comply fully and promptly with an Election Officer's order under Section 4.3 is a separate offence from an offence under subsection 13.1.
- 4.5. If the Election Officer cannot, during the Election Campaign, resolve to his/her satisfaction a complaint made under Section 4.3, the Council may continue to deal with the complaint after the election.
- 4.6. Decisions of the Election Officer made during the Election Campaign are final, but a Member subject to such a decision may apply to the Appeal Committee to review the decision after the conclusion of the Election Campaign. At that time the Appeal Committee may review the Decision and may vary or rescind any penalty the Election Officer has imposed.
- 4.7. With the approval of GNC, the Election Officer may disqualify from being (or continuing to be) a candidate for election, acclamation or appointment to the Board of Directors, any candidate who directly or through another person acting on his/her behalf, behaves contrary to this Regulation.

5. CAMPAIGN PERIOD AND PROMOTIONAL MATERIAL

- 5.1. During the Campaigning Period, upon the written request of a candidate, the Council will post a candidate-supplied professional quality photograph together with one (1) candidate biography and/or election message – translated into both Official Languages – on the ICCRC website. Biographies/messages will not be posted in either Official Language until a translation into the other official language is available. To ensure accuracy and consistency, the English and French translations will be completed by the Council's staff translator or, if the candidate provides a translation, reviewed by the staff translator before being posted on the ICCRC website.

- 5.2. The supplied biography and/or election message shall be limited to a maximum length of 300 words, calculated by the word count feature of Microsoft Word software in English.
- 5.3. A candidate is solely responsible for the content of any campaign material supplied to the Council for translation and posting and accordingly the staff translator will not correct spelling or grammar errors contained in messages.
- 5.4. The Council will provide a link from the ICCRC website to the candidate's campaign website or other social media applications (not the Member's immigration/citizenship practice business website) for the balance of the Campaigning Period. Members are cautioned that links to their business-related websites will constitute a breach of Canada's Anti-Spam Legislation (CASL) as the inclusion of such business website link results in it being a commercial electronic message.
- 5.5. A candidate, or a person acting on behalf of a candidate, who causes any election campaigning material to be sent to Members shall mention in any such material that its transmission was authorized by the candidate who is responsible for its content. Campaigning messages must not include business promotional information or business website links as such would be considered a breach of CASL making those communications a commercial electronic message.
- 5.6. No Person shall distribute any Messaging during the Voting Period designated by the Election Officer for Members to cast their votes, or the Calming Days that occur between the end of campaigning and the commencement of voting. A candidate e-mail message, transmitted by ICCRC on the final day of campaigning, which for technical reasons is not received in a Member's e-mail account until the Calming Days period has begun, will not constitute a breach of the campaigning rules.
- 5.7. Notwithstanding section 5.6, during the Calming Days and the Voting Period, a candidate may reply to a question received directly from a Member still deciding how he/she will vote, provided that the candidate only replies directly to the Member posing the question and does not add to or copy the reply to any other individual(s) even if included as a cc or bcc to the question.

6. MEMBERSHIP LIST

- 6.1. Prior to the commencement of the Campaigning Period, the Election Officer shall cause a notice to be mailed to all Members in good standing who have refused CASL consent or unsubscribed from receiving electronic messages from ICCRC, to inform them that such action will exclude them from receiving Messaging. Members wishing to receive Messaging shall e-mail casl@icrc-crcic.ca indicating their desire to be reinstated to receive candidate communications.
- 6.2. On the day preceding the opening of the Campaigning Period, the Registrar shall cause a list to be prepared of all Members in good standing who have not expressly opted-out under CASL for the purpose of receiving Messaging. This list will be used for the entire Campaigning Period notwithstanding the addition or deletion of Members who opt-in or opt-out of

receiving electronic messages.

6.3. In accordance with the *Canada Not-for-profit Corporations Act*, for the purpose of influencing the voting of Members, the Registrar shall prepare a Membership list to be made available to Members who comply with section 6.4. This list shall contain:

- a) Member first and last name
- b) Member mailing address of record

6.4. A Member wishing to obtain a copy of the Membership list, prepared in accordance with section 6.3, shall request a Membership list and submit a statutory declaration in the prescribed form to the Registrar before receiving the list electronically. The list, supplied for campaigning purposes shall only be used for campaign purposes and may not be used for any other purpose.

6.5. Any person obtaining a copy of the Membership list for the purpose of campaigning shall at all times respect the privacy of Members.

7. E-MAIL MESSAGES

7.1. During the Campaigning Period, in compliance with privacy law, ICCRC shall facilitate the sending of e-mail Messaging on behalf of Members.

7.2. The candidate or Member requesting an e-mail message to be sent to Member will provide the text in Microsoft Word format ensuring that spelling, grammar and content is correct.

7.3. All Messaging sent on behalf of a candidate or Member during the Campaigning Period shall contain a disclaimer that the content is the sole responsibility of the candidate or Member and is not in any way endorsed by the Council.

7.4. When requesting an e-mail message be sent, the candidate or Member shall stipulate the demographic of the recipients to receive the message including:

- a) English-speaking Members only (text to be supplied in English)
- b) French-speaking Members only (text to be supplied in French)
- c) English and French-speaking Members (text is to be supplied in both English and French)
- d) Members in a specific geographic electoral region or all Members

7.5. A candidate or Member requesting an e-mail message to be sent to Members shall e-mail their request and accompanying text to elections@icrc-crcic.ca.

- 7.6. ICCRC will, upon receiving a proper e-mail Messaging request, diligently endeavour to transmit that message by the close-of-business the next following business day.
- 7.7. A candidate or Member shall limit initiating e-mail Messaging to one message every seven (7) days, with one final message between day 34 and 36 of the Campaigning Period.

8. IN-PERSON CAMPAIGNING

- 8.1. Candidates shall ensure, whenever Members are invited to attend an in-person election meeting or event, that no alcoholic beverages, illegal drugs or other products that may cause impairment are served or otherwise made available to attendees.

9. VOTING

- 9.1. Election of directors shall be conducted by electronic ballot and/or paper ballot submitted by the Members in good standing during the seven (7) day Voting Period designated by the Election Officer for such purpose. Only those ballots received by the ICCRC-designated third-party voting service on or before the published deadline shall be accepted as valid.
- 9.2. Every Member in good standing on the date stipulated by Board Resolution shall be entitled to vote for any candidate nominated in every geographic region. Each Member will have one vote for each position open for election.
- 9.3. A Member may request a paper ballot package, rather than voting electronically, during the specified period advertised for requesting a paper ballot package. A Member receiving a paper ballot package shall be responsible for the return cost of his/her ballot to the ICCRC-designated third-party voting service specified in the ballot package, within the voting deadline. The Council will not be responsible for the late delivery of a Member's ballot package to the voting service. A Member who has requested a paper ballot package will not be allowed to vote electronically in the election once their name has been removed from the electronic voting list.

10. COUNTING BALLOTS

- 10.1. The voting results of an election of directors are tabulated and certified at the offices of the Council's confidential third-party voting service and then communicated by e-mail to the Election Officer who will store the results in safe-keeping until after the chair of the GNC (or his/her designate) and the Chair of the Board of Directors (or his/her designate) have been notified of the election result. Where the GNC Chair is a candidate him/herself, the election results will be provided to the GNC Vice-chair. Where the GNC Chair and Vice-chair are both candidates, the results will be provided to the GNC Member designated by the GNC Chair to receive the results. Where the Board Chair is a candidate him/herself, the election results will be provided to the Board Vice-chair. Where the Board Chair and Vice-chair are both candidates, the results will be provided to the Director designated by the Board Chair to receive the results.

- 10.2. Once the GNC Chair and the Board Chair or their designates have been made aware of the results, the Election Officer will e-mail each candidate's personal results, together with the total votes cast in that electoral region, to each candidate.
- 10.3. A candidate may not reveal the results of the election until the results are officially announced at the Annual General Meeting.

11. TIE RESULTS

- 11.1. In the case of an equality of votes for the last position in a geographic region, the Election Officer will set the time, place and method (e.g. via real-time remote telepresence for those at a distance from the designated place) where each candidate affected will personally or via a designated representative draw lots to fill the position.

12. ANNOUNCING THE RESULTS

- 12.1. The Election Officer shall announce the names of the candidates who were elected/acclaimed at the Annual General Meeting of Members.

13. PENALTIES FOR CAMPAIGNING OFFENCES

- 13.1. A Member who commits an offence under sections 4, 5.5 – 5.7, 6.4, 6.5 or 8.1 shall be subject to the following penalties:
- a) For a first offence in any current or past election - \$1,000.00
 - b) For a second offence in any current or past election - \$2,000.00
 - c) For a third or subsequent offence in any current or past election - \$3,000.00 for each occurrence.
- 13.2. If a Member is found to have committed an offence under sections 4, 5.5 – 5.7, 6.4, 6.5 or 8.1 that does not preclude the Member being charged with an offence for the same conduct under the Code of Professional Ethics, provided that the Member can be penalized only once for the same offence, and only penalized with either the penalties in this Regulation or the penalties under the Code of Professional Ethics.
- 13.3. Every distribution of Messaging by a Member that is an offence under this Regulation shall be treated as a separate offence.