

Agent Training Program Content

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Agent Online Training Program

About the Program

You must complete the NSW Electoral Commission's (NSWEC) online training program which includes a multiple choice assessment before you can be appointed as an agent. The maximum number of times that you attempt the assessment is five and you must achieve a score of at least 80% to successfully complete the training program.

Following your successful completion of the training program you will receive a confirmation email from the NSWEC. You can be appointed as an agent from then. After you have been appointed as an agent by a political party, an elected member, a candidate, a group or a third-party campaigner the NSWEC must be notified of your appointment.

When the NSWEC has been properly notified of your appointment your details will be included in a publicly available register of agents that is kept by the NSWEC. You will then receive written notification from the NSWEC that you are a registered agent.

Thank you for participating in the NSWEC's online training program for prospective agents. The aim of the training program and the assessment is to educate agents and electoral participants on their responsibilities and obligations under the *Election Funding, Expenditure and Disclosure Act 1981*.

To successfully complete the training program first read and understand the material provided and then undertake the multiple choice assessment.

The NSWEC website (www.elections.nsw.gov.au/fd) has forms that you can download to:

- apply to register as a candidate, group or third-party campaigner
- notify the NSWEC of the appointment of an agent
- notify the NSWEC of a change in the registered details of a candidate, group, third-party campaigner or agent
- notify the NSWEC of the death, resignation or the revocation of the appointment of an agent
- disclose political donations and electoral expenditure

Program Outline

The training program provides information to prospective agents:

Module 1	Registration
Module 2	Agents
Module 3	Responsibilities of an Agent
Module 4	Campaign Accounts
Module 5	Political Donations
Module 6	Receiving Political Donations
Module 7	Fundraising Ventures and Functions
Module 8	Loans
Module 9	Membership and Affiliation Fees
Module 10	Prohibited and Unlawful Donations
Module 11	Electoral Expenditure
Module 12	Record Keeping
Module 13	Cheque, Petty Cash and Cash Books for Receipts and Payments
Module 14	Advertising Records
Module 15	Disclosure Responsibilities of Agents

Module 16 Disclosure Requirements
Module 17 Lodging a Disclosure Form
FINAL ASSESSMENT

Do this course in your own time.

You do not need to work your way through this course in a single go. Work at your own pace, in your own time. Leave a module at any time; return to it at any time. You can also print the modules for study away from a computer.

1. Registration

1.1. Of a Candidate

- Candidates must be registered with the NSWEC for an election before:
 - accepting political donations, and
 - making payments for electoral expenditure.
- To register as a candidate, the candidate must make an application to the NSWEC. The NSWEC has application forms available on its website.
- After the NSWEC has received a properly completed application form the details of the candidate will be included in a publicly available register kept by the NSWEC.
- The NSWEC will send written notification to the candidate to confirm the candidate's registration for the election.
- Candidate registrations for an election close on nomination day for the election.
- Candidates who do not apply to be registered for an election will be registered by the NSWEC on nomination day for the election.
- Candidate registration is separate to the candidate being nominated for the election. Candidates can only be nominated for an election, and have their name included on the ballot paper, during the nomination period.
- After the candidate has been registered for an election the NSWEC must be notified within 30 days if the details of the candidate change so the register can be updated. The NSWEC has notification forms available on its website.

1.2. Of a Group of Candidates

- A group of candidates must be registered with the NSWEC for an election before:
 - accepting political donations, and
 - making payments for electoral expenditure.
- To register as a group, the group of candidates must make an application to the NSWEC. The NSWEC has application forms available on its website.
- After the NSWEC has received a properly completed application form the details of the group and the candidates in the group will be included in a publicly available register kept by the NSWEC.
- The NSWEC will send written notification to the head candidate to confirm the group's registration for the election.
- Group registrations for an election close on nomination day for the election.
- Groups that do not apply to be registered for an election will be registered by the NSWEC on nomination day for the election.
- Group registration is separate to the candidates in the group being nominated for the election being listed as a group on the ballot paper. Candidates can only be nominated for an election, and have their names included as a group on the ballot paper, during the nomination period.
- After the candidate has been registered for an election the NSWEC must be notified within 30 days if the details of the candidate change so the register can be updated.
- After the group has been registered for an election the NSWEC must be notified within 30 days if the details or composition of the group change so the register can be updated. The NSWEC has notification forms available on its website.

1.3. Of a Third-party Campaigner

- A third-party campaigner must be registered with the NSWEC for an election before:
 - incurring more than \$2,000 in electoral communication expenditure,

- during the capped State expenditure period for a State election, or
- during the local government expenditure period for a Local Council election.
- To register as a third-party campaigner, the campaigner must make an application to the NSWEC. The NSWEC has application forms available on its website.
- After the NSWEC has received a properly completed application form the details of the third-party campaigner will be included in a publicly available register kept by the NSWEC.
- The NSWEC will send written notification to the third-party campaigner to confirm the campaigner's registration for the election.
- Third-party campaigner registrations for an election close on the 8th day before the election.
- After the campaigner has been registered for an election the NSWEC must be notified within 30 days if the details of the campaigner change so the register can be updated. The NSWEC has notification forms available on its website.

1.4. Elected Members (members of Parliament and Councillors)

- Elected members of the NSW Parliament and local Councils can accept political donations and incur electoral expenditure without being registered with the NSWEC.
- Elected members who are seeking re-election should understand their responsibilities as candidates and the requirements to appoint an official agent.

1.5. Political Parties

- Political parties can apply to be registered with the NSWEC for State or Local Council elections.
- All political parties, whether or not registered, must comply with the laws for political donations and electoral expenditure.

2. Agents

2.1. What is an agent?

There are 2 types of agents:

1. Official Agents - An official agent is someone who manages and discloses the political donations and electoral expenditure of a candidate, group of candidates or third-party campaigner at a State or Local Government election in NSW, or an elected member of the NSW Parliament or a local Council.
2. Party Agents - A party agent is someone who manages and discloses the political donations and electoral expenditure of a registered or unregistered political party in NSW.

2.2. Why are agents needed?

- It is a legal requirement that each elected member, candidate, group of candidates and third-party campaigner has an official agent. This legal requirement aims to improve integrity in election campaigns by ensuring that those participating in an election are "at arm's length" from their election campaign finances.

- Likewise, it is a legal requirement that each political party has appointed a party agent, whether the party is registered or not. This legal requirement aims to improve integrity in election campaigns by ensuring each political party has a person who is responsible for accurately disclosing the party's political donations and electoral expenditure.

2.3. Who is your agent?

Political Parties

- The party agent of a party is the person who was appointed by the party as the party's agent.
- For registered political parties that do not have an appointed party agent, the registered officer of the party acts as the party agent of the party.

Elected members

- The official agent of members of the NSW Parliament, who are members of a political party registered for State elections, is the party agent of the political party. These elected members can appoint a different person as their official agent with the consent of the party agent.
- The official agent of all other members of the NSW Parliament, is the person who was appointed by an elected member as the elected member's official agent. If the elected member does not have an appointed official agent the elected member acts as their own official agent.

Candidates

- At Local Government elections the official agent of a candidate is the person who was appointed by the candidate as the candidate's official agent. If at any time the candidate does not have an appointed official agent the candidate acts as their own agent until a new agent is appointed.
- At State elections the official agent of a candidate, who is not a member of a political party that is registered for State elections, is the person who was appointed by the candidate as the candidate's official agent. If at any time the candidate does not have an appointed official agent the candidate acts as their own agent until a new agent is appointed.
- At State elections the official agent of a candidate, who is a member of a political party that is registered for State elections, is the party agent of the political party. These candidates can appoint a different person as their official agent with the consent of the party agent.

Groups

- At Local Government elections the official agent of a group is the person who was appointed by the group as the group's official agent. If at any time the group does not have an appointed official agent the head candidate of the group acts as the group's agent until a new agent is appointed.
- At State elections the official agent of a group, whose members are not members of a political party that is registered for State elections, is the person who was appointed by the group as the group's official agent. If at any time the group does not have an

appointed official agent the head candidate of the group acts as their own agent until a new agent is appointed.

- At State elections the official agent of a group, whose members are members of a political party that is registered for State elections, is the party agent of the political party. These groups can appoint a different person as the group's official agent with the consent of the party agent.

Third-party Campaigners

- The official agent of a third-party campaigner is the person who was appointed by the campaigner as the campaigner's official agent.

2.4. When to appoint an agent?

Political parties

- Political parties must appoint a person as party agent when they first become a party, even if the party is not a registered party.

Elected members

- It is optional for the following elected members to appoint a person as their official agent:
 - all elected members of local Councils
 - all members of the NSW Parliament that are not members of a political party registered for State elections
 - all members of the NSW Parliament that are members of a political party that is registered for State elections but the elected member must have the consent of the party agent.
- Elected members who are seeking re-election should also refer to the information above for candidates.

Candidates and groups

- The following candidates and groups of candidates must appoint a person as official agent before they accept political donations or make payments for electoral expenditure:
 - all Local Government election candidates and groups
 - all State election candidates and groups who are not members of a political party that is registered for State elections.
- A candidate includes an ungrouped candidate, a candidate who is a member of a group and in the case of a Local Government election a candidate for a mayoral election.
- Candidates who are members of a group must each appoint an official agent in addition to the appointment of an official agent for the group,
- Candidates and groups that do not accept political donations or make payments for electoral expenditure must appoint an official agent when they are nominated for an election.

Third-party campaigners

- Third-party campaigners must appoint a person as official agent before the third-party campaigner applies for registration with the NSWEC.
- Third-party campaigners that do not notify the NSWEC of the appointment of an official agent when applying to be registered for an election will be refused registration and will not be entitled to incur more than \$2,000 in electoral communication expenditure.

Death, resignation or revoking the appointment of an agent

- If an appointed agent dies, resigns or their appointment is revoked:
 - the individual or entity that appointed the agent must notify the NSWEC, and
 - a new agent must be appointed, and
 - the NSWEC must be notified of the new appointment.

Penalties for not complying with the rules

- A candidate or group that is required to appoint an agent but who fails to do so has not complied with the legal requirements and may receive a fine of \$2,750.
- A political party that has not appointed a party agent has not complied with the legal requirements and the officers of the party may each receive a fine of \$2,750.

2.5. Eligibility criteria for an appointed agent

To be eligible to be appointed as an agent a person must satisfy all the following criteria:

- be enrolled to vote at NSW State elections
- successfully complete this training program and achieve at least 80% in the assessment
- not have been convicted of an indictable offence, an offence against the Election Funding, Expenditure and Disclosures Act 1981, an offence involving dishonesty, or an electoral offence.

The following people are eligible for appointment as an agent without completing this training program:

- a Certified Practising Accountant member of CPA Australia, NSW Division
- a member of the Institute of Chartered Accountants in Australia, NSW Region, who holds a Certificate of Public Practice by that Institute
- a member of the National Institute of Accountants who holds a Public Practice Certificate issued by that Institute.

2.6. Notify the NSWEC of the appointment of an agent

- When an agent is appointed the NSWEC must be notified in writing. The NSWEC has notification forms available on its website.

2.7. Registration of agents

- When the NSWEC has been properly notified of the appointment of an agent the agent's details are included in a publicly available register kept by the NSWEC.
- If the details of the agent change the NSWEC must be notified within 30 days so the register can be updated.

2.8. Registration expiry

- In the case of a party, the party agent's appointment remains until any of the following occur:
 - the party agent dies
 - the party agent resigns as agent
 - the appointment of the party agent is revoked by the party.
- In the case of an official agent, the official agent's appointment remains until the agent has properly disclosed the political donations and electoral expenditure of the candidate, group, elected member or third-party campaigner. An agent's appointment may expire before this if any of the following occur:
 - the official agent dies
 - the official agent resigns as agent
 - the appointment of the official agent is revoked by the candidate, group, elected member or third-party campaigner.
- The NSWEC must be notified by a party, candidate, group, elected member or third-party campaigner when an agent dies, resigns or their appointment is revoked and a new agent must be appointed. The NSWEC has notification forms available on its website.

2.9. Timeline for of a Candidate

The following steps apply to those candidates who are required to appoint a person as official agent.

Step 1. The candidate should choose a prospective agent who is good at keeping proper records, has experience in understanding regulations and rules and who is willing to be held accountable for the management and disclosure of the candidate's election campaign finances. Penalties can apply to official agents who do not comply with the rules. Prospective agents should understand this before agreeing to be an agent.

Step 2. Ensure the prospective official agent:

- is enrolled to vote in NSW State elections,
- has successfully completed the NSWEC's online training program, and
- has not been convicted of an indictable offence, an electoral offence, an offence involving dishonesty or an offence against the *Election Funding, Expenditure and Disclosures Act 1981*.

Step 3. The candidate appoints the person as their official agent, applies to be registered as a candidate with the NSWEC for an election and notifies the NSWEC of the agent's appointment.

Step 4. The official agent and the candidate are now registered and the agent can accept political donations and make payments for electoral expenditure on behalf of the candidate.

Step 5. The official agent keeps complete and accurate records of political donations and electoral expenditure and operates the campaign account.

Step 6. After 30 June of that year the official agent lodges with the NSWEC a disclosure form that includes all political donations made and received by the candidate and all

electoral expenditure incurred by the candidate in the 12-month period ending 30 June. Disclosure forms are due by 22 September.

2.10. Timeline for of a Group

The following steps apply to those groups of candidates who are required to appoint a person as official agent.

Step 1. The group should choose a prospective agent who is good at keeping proper records, has experience in understanding regulations and rules and who is willing to be held accountable for the management and disclosure of the group's election campaign finances. Penalties can apply to official agents who do not comply with the rules. Prospective agents should understand this before agreeing to be an agent.

Step 2. Ensure the prospective official agent:

- is enrolled to vote in NSW State elections,
- has successfully completed the NSWEC's online training program, and
- has not been convicted of an indictable offence, an electoral offence, an offence involving dishonesty or an offence against the *Election Funding, Expenditure and Disclosures Act 1981*.

Step 3. The group appoints the person as the group's official agent, the group applies to be registered as a group with the NSWEC for an election and notifies the NSWEC of the agent's appointment.

Step 4. The group and the official agent are now registered and the agent can accept political donations and make payments for electoral expenditure on behalf of the group.

Step 5. The official agent keeps complete and accurate records of political donations and electoral expenditure and operates the campaign account.

Step 6. After 30 June of that year the official agent lodges with the NSWEC a disclosure form that includes all political donations made and received by the group and all electoral expenditure incurred by the group in the 12-month period ending 30 June. Disclosure forms are due by 22 September.

2.11. Timeline for a Third-party campaigner

The following steps apply to all third-party campaigners:

Step 1. The campaigner should choose a prospective agent who is good at keeping proper records, has experience in understanding regulations and rules and who is willing to be held accountable for the management and disclosure of the campaigner's election campaign finances. Penalties can apply to official agents who do not comply with the rules. Prospective agents should understand this before agreeing to be an agent.

Step 2. Ensure the prospective official agent:

- is enrolled to vote in NSW State elections,
- has successfully completed the NSWEC's online training program, and
- has not been convicted of an indictable offence, an electoral offence, an offence involving dishonesty or an offence against the *Election Funding, Expenditure and Disclosures Act 1981*.

Step 3. The campaigner appoints the person as the campaigner's official agent, the campaigner applies to be registered as a third-party campaigner with the NSWEC for an election and notifies the NSWEC of the agent's appointment.

Step 4. The official agent can now accept political donations and make payments for electoral expenditure on behalf of the campaigner.

Step 5. The official agent keeps complete and accurate records of political donations and electoral expenditure and operates the campaign account.

Step 6. After 30 June of that year the official agent lodges with the NSWEC a disclosure form that includes all political donations received and all reportable political donations made in the 12-month period and all electoral communication expenditure incurred in the capped State expenditure period or the local government expenditure period (as applicable). Disclosure forms are due by 22 September.

2.12. Timeline for a Party

The following steps apply to all political parties (whether or not a party is registered):

Step 1. The party should choose a prospective agent who is good at keeping proper records, has experience in understanding regulations and rules and who is willing to be held accountable for the management and disclosure of the campaigner's election campaign finances. Penalties can apply to party agents who do not comply with the rules. Prospective agents should understand this before agreeing to be an agent.

Step 2. Ensure the prospective party agent:

- is enrolled to vote in NSW State elections,
- has successfully completed the NSWEC's online training program, and
- has not been convicted of an indictable offence, an electoral offence, an offence involving dishonesty or an offence against the *Election Funding, Expenditure and Disclosures Act 1981*.

Step 3. The party appoints the person as the party's agent and notifies the NSWEC of the agent's appointment. The party agent is now registered with the NSWEC.

Step 4. The party agent keeps complete and accurate records of political donations and electoral expenditure and operates the party's accounts.

Step 5. After 30 June of that year the party agent lodges with the NSWEC a disclosure form that includes all political donations made and received by the party and all electoral expenditure incurred by the party in the 12-month period ending 30 June. Disclosure forms are due by 22 September.

3. Responsibilities of an Official Agent

Official agents have legal obligations and responsibilities that they must comply with including:

Political donations:

- accept all political donations (donations must not be accepted until a candidate, group or third-party campaigner is registered)
- keep complete and accurate records of all political donations regardless of size or value
- deposit all political donations into the campaign account (unless a campaign account is not required)
- record the names and addresses of those who make a reportable political donation
- issue a receipt to those who make a reportable political donation
- must not accept unlawful political donations
- ensure political donations are only used to incur electoral expenditure or to reimburse a person for incurring electoral expenditure or for any other authorised purpose
- maintain proper records of all loans received

Electoral expenditure:

- make payments for all electoral expenditure (payments for electoral expenditure cannot be made until a candidate, group or third-party campaigner is registered)
- keep proper records of all electoral expenditure regardless of value
- make payments for electoral expenditure from the campaign account (unless a campaign account is not required)

Disclosures:

- disclose political donations annually to the NSWEC
- provide to the NSWEC a copy of all receipts issued to those who made a reportable political donation
- disclose electoral expenditure annually to the NSWEC
- for electoral communication expenditure, provide to the NSWEC a copy of all invoices or receipts and a copy of the advertising or printed material to which the expenditure relates
- ensure disclosures are certified by a registered company auditor (unless exempt)

Campaign account:

- for an elected member, candidate or group, open a campaign account (with a bank, building society or credit union) in the name of the elected member, candidate or group of candidates before \$1,000 in political donations are accepted and before \$1,000 in electoral expenditure is incurred during an election period
- for a third-party campaigner, open a campaign account (with a bank, building society or credit union) in the name of the campaigner before \$2,000 in electoral communication expenditure is incurred during the capped State expenditure period for a State election or the local government expenditure period for a local Council election (as applicable)
- operate the campaign account only for authorised purposes
- appoint another person, in writing, to deposit political donations into, and make payments for electoral expenditure from, the campaign account
- deposit NSWEC public funding payments to a candidate into the campaign account
- close the account when it is no longer required with the surplus funds distributed as required

Public funding for eligible State election candidates and independent members of Parliament:

- before lodging a claim for payment with the NSWEC, have the claim for payment reviewed by a registered company auditor
- lodge a claim for payment on behalf of the elected member or candidate that is eligible to receive public funding

Registration:

- notify the NSWEC in writing if agent details change or the details of the candidate, group or third-party campaigner change
- notify the elected member, candidate, group or third-party campaigner if you resign

Party agents have legal obligations and responsibilities that they must comply with including:

- lodge with the NSWEC the annual disclosure of political donations made and received and electoral expenditure incurred by the party
- provide with the annual disclosure a copy of all receipts issued to those people who made a reportable political donation to the party
- provide with the annual disclosure a copy of all invoices or receipts and a copy of the advertising or printed material for all electoral communication expenditure
- ensure the annual disclosure is certified by a registered company auditor
- provide with the annual disclosure a copy of the party's audited annual financial statements and other accounting and bank records of the party

4. Campaign Accounts

4.1 Campaign Accounts of elected members, candidates and groups

- A campaign account for an election must be opened with a bank, building society or credit union before:
 - accepting \$1,000 or more in political donations, and
 - incurring \$1,000 or more in electoral expenditure during an election period.
- An election period for an election commences 30 days after the previous election and ends 30 days after the current election.
- The campaign account must be separate to any personal accounts and must be operated by the official agent, not the elected member, candidate or group.
- The official agent must be authorised with the bank, credit union or building society to operate the campaign account. To do this, the official agent is to be a signatory on the account. The NSWEC has no requirements as to the name of the account.
- The official agent may appoint a person in writing to operate the campaign account. A person who has been convicted of an offence that would disqualify the person from being appointed as an official agent cannot be appointed by an official agent to operate a campaign account.
- While candidates or members of a group may also be signatories to the campaign account, they are not allowed to operate the account.

- A single campaign account can be kept for a number of candidates and groups by the same official agent but the transactions of each candidate or group must be accounted for separately.
- The following may be paid into the campaign account:
 - political donations made to the elected member, candidate or group
 - contributions made by the elected member, candidate or group for their own campaign
- The following payments are to be made from the campaign account:
 - electoral expenditure of the elected member, candidate or group
 - electoral expenditure of a party of which the elected member, candidate or group's members are a member, with approval from the party agent
 - reimbursing the elected member, candidate or group for money they paid into the account
 - making a political donation to another elected member, candidate or group who are members of the same party
 - expenditure for parliamentary or council duties or in connection with community activities
- After the elected member, candidate or group ceases to be an elected member, candidate or group and the account is no longer required the remaining amount in the account is to be paid:
 - to the party of which the person was a member when they last became an elected member or contested an election; or
 - in the case of a group – to the campaign accounts of the members of the group, divided equally; or
 - if the above do not apply, to a charity nominated by the person or by the NSWEC.
- If a candidate is to receive a payment from the NSWEC from the Election Campaigns Fund the account is to remain open so the payment can be made by the NSWEC into the account.
- When the account is no longer required the account may be closed. Bank statements of the account must be kept for the purpose of the NSWEC's compliance audits and for the purpose of a registered company auditor undertaking a review of the campaign account.

4.2 Campaign Accounts of Third-Party Campaigners

- A campaign account must be opened with a bank, building society or credit union before incurring more than \$2,000 in electoral communication expenditure during:
 - the capped State expenditure period for a State election, or
 - the local government expenditure period for a local Council election.
- The campaign account must be separate to any personal accounts and must be operated by the official agent.
- The official agent must be authorised with the bank, credit union or building society to operate the campaign account. To do this, the official agent is to be a signatory on the account. The NSWEC has no requirements as to the name of the account.

- The official agent may appoint a person in writing to operate the campaign account. A person who has been convicted of an offence that would disqualify the person from being appointed as an official agent cannot be appointed by an official agent to operate a campaign account.
- The campaign account must be used by the official agent:
 - to make payments for electoral communication expenditure, and
 - to deposit political donations used for the purpose of making payments for electoral communication expenditure.

4.3 Campaign Accounts of Political Parties

State Campaign Account

- Political parties that incur electoral expenditure for a State election must keep a State campaign account.
- All electoral expenditure incurred by the party for a State election must be paid from the State campaign account. Other expenditure (except electoral expenditure for a local government election) may be paid from the account.
- The State campaign account must be separate to other accounts kept by the party and is to be an account kept with a bank, building society or credit union.
- A political party may pay the following into the State campaign account:
 - political donations made to the party after 1 January 2011 (including the proceeds of the investment or disposal of any political donation of property after that date that is held as an asset of the account) other than political donations (or the proceeds of political donations) paid into a local government or federal campaign account,
 - payments made to the party by the NSWEC from the Election Campaigns Fund,
 - money borrowed by the party at any time (other than money borrowed for a local government or federal election),
 - a bequest to the party,
 - money belonging to the party on 1 January 2011 (including the proceeds of the investment or disposal of any other property belonging to the party on or before that date).
- A political party must not pay any of the following into the State campaign account:
 - a party subscription (i.e. a membership or affiliation fee), other than amounts that exceed the maximum subscription rate (refer to the section on donation caps for more information about the maximum subscription rate)
 - any amount of a political donation to the party that exceeds the applicable cap on political donations to the party,
 - any money paid to the party by the NSWEC from the Administration Fund or Policy Development Fund.

Local government Campaign Account

- Political parties that incur electoral expenditure for a local government election must keep a local government campaign account.
- All electoral expenditure incurred by the party for a local Council election must be paid from the local government campaign account. Other expenditure (except electoral expenditure for a State election) may be paid from the account.

- The local government campaign account must be separate to other accounts kept by the party and is to be an account kept with a bank, building society or credit union.
- The following may be paid into the local government campaign account of a party:
 - political donations made to the party after 1 July 2016 that do not exceed the applicable cap on political donations to the party for a local government election (including the proceeds of the investment or disposal of any political donation of property after that date for a local government election that is held as an asset of the account),
 - money borrowed by the party at any time for a local government election
 - money belonging to the party on 1 July 2016 (including the proceeds of the investment or disposal of any other property belonging to the party on or before that date).
- A political party must not pay any of the following into the local government campaign account:
 - a party subscription (i.e. a membership or affiliation fee), other than amounts that exceed the maximum subscription rate (refer to the section on donation caps for more information about the maximum subscription rate)

5. Political Donations

5.1 What is a political donation?

- A political donation is a gift made to or for the benefit of:
 - a political party, or
 - an elected member, or
 - a candidate or a group of candidates, or
- A political donation also includes a gift made to or for the benefit of an entity or other person, the whole or part of which was used or is intended to be used by the entity or person:
 - to enable the entity or person to make, directly or indirectly, a political donation or to incur electoral expenditure, or
 - to reimburse the entity or person for making, directly or indirectly, a political donation or incurring electoral expenditure.
- Examples of political donations include:
 - monetary donations,
 - non-monetary donations (e.g. sporting memorabilia used for a fundraising event)
 - free or discounted services (e.g. printing of electoral material)
 - tickets and other items sold as part of a fundraising event (e.g. raffle tickets)
 - membership or affiliation fees paid to a political party
 - a transfer between a political party and an elected member, candidate or group
 - interest charged on a loan that is less than the generally prevailing interest rate set by the NSWEC
 - a transfer to the NSW branch of a party from the federal branch or another state or territory branch of the party
 - a transfer from one party to an associated party

5.2 Categories of political donations

- There are two categories of political donations:

Small political donations

- A small political donation is a political donation of less than \$1,000 or multiple political donations from the same donor to the same recipient in one financial year totalling less than \$1,000.

Reportable political donations

- A reportable political donation is a political donation of \$1,000 or more or multiple small political donations from the same donor to the same recipient in one financial year totalling \$1,000 or more.

5.3 Caps on political donations

- Political donations in NSW are subject to specified caps. It is unlawful for a person to accept a political donation that exceeds the applicable cap.
- The caps on political donations are adjusted for inflation each financial year. The [NSWEC's website](#) lists the donation caps for each financial year.
- The caps on political donations for local government elections for the 2016/17 financial year are:
 - \$5,900 for political donations made to or for the benefit of a registered party or a group,
 - \$2,600 for political donations made to or for the benefit of an unregistered party, an elected member, a candidate or a third-party campaigner
- The caps on all other political donations for the 2016/17 financial year are:
 - \$5,900 for political donations made to or for the benefit of a party registered for State elections or a group,
 - \$2,600 for political donations made to or for the benefit of an unregistered party, a party registered for local government elections, an elected member, a candidate or a third-party campaigner
- Multiple donations made by a donor in a financial year are subject to the following aggregation rules:
 - Multiple donations made by a donor for local government elections and for other purposes to the same recipient in a financial year are to be aggregated separately for the purpose of the caps. For example, a donor can give up to \$5,900 to a registered party for a State election and \$5,900 to the same party for a local government election in a financial year.
 - Multiple donations made by a donor for local government elections and for other purposes to elected members, candidates and groups of the same party in a financial year are to be aggregated for the purpose of the caps. For example, a donor can only give up to \$2,600 to elected members and candidates of the same party for a State election and can give \$2,600 to elected members and candidates of the same party for a local government election in a financial year.

5.4 Who can make a political donation?

- Only the following individuals and entities can make political donations:
 - individuals who are enrolled to vote at a NSW State or local government election, or for a federal election,
 - any other individual who has supplied the NSW Electoral Commissioner with identification that shows the individual's full name and residential address in Australia,
 - entities that have a business number (e.g. ABN or ACN) that is recognised by the Australian Securities and Investments Commission,
 - any other entity that has supplied the NSW Electoral Commissioner with identification of the principal or executive officer of the entity showing their full name and residential address in Australia
- It is unlawful for a person to accept a political donation from an individual or entity who does not meet the criteria above.

6. Receiving Political Donations

6.1 General rules

- In the case of a political donation to or for the benefit of an elected member, candidate, group or third-party campaigner, the political donation must be made to the official agent and must be paid into the campaign account (if an account is required to be kept).
- In the case of a political donation to or for the benefit of a political party, the political donation must be made to a person authorised by the party and must be paid into an account kept by the party.
- Complete and accurate records must be kept of all political donations received to ensure they are properly disclosed to the NSWEC.
- Political donations made to or for the benefit of an elected member, candidate, group or third-party campaigner can only be used to incur electoral expenditure or any other authorised purpose.
- Political donations made to or for the benefit of a political party can only be used for the objects and activities of the party, including the administration of the party and community activities.
- There are strict rules about who you can accept a political donation from. For this reason, it is important that you are properly managing the receipt of political donations.

6.2 Small political donations

- The donor must be a lawful donor
- A record must be made of the donation and the donor
- The total number and total value of small donations must be disclosed to the NSWEC

6.3 Reportable Political Donations

- The donor must be a lawful donor.
- The name and address of the donor must be given to the person accepting the donation at the time the donation is made.
- A record must be made of the donation and the donor
- A receipt must be issued to the donor for monetary donations (using an NSWEC receipt book)
- An acknowledgment slip must be issued to the donor for non-monetary donations (using an NSWEC receipt book)
- The full details of the donor and the donation must be disclosed to the NSWEC

6.4 Receipts and Acknowledgements

- Contact the NSWEC to request a receipt/acknowledgement book (Tel: 1300 022 011 or Email: fdc@elections.nsw.gov.au)
- A receipt/acknowledgement must be completed and signed by the official agent, or in the case of a party, an authorised officer of the party.
- Each receipt/acknowledgement must include:
 - the name and residential address of the donor (the ABN must also be recorded if the donor is an entity who has a relevant business number);
 - the amount or value of the donation;
 - the name of the candidate, group, elected member, political party or third-party campaigner to whom or for whose benefit the donation was made;
 - the date the donation was made;
 - for monetary donations, the type of payment (e.g. cash, cheque, gift)
 - for non-monetary donations, a description of the donation
 - the purpose of the donation
- Each receipt/acknowledgement is in triplicate form and you should issue the white copy to the donor. The duplicate is to be kept by the agent for record keeping purposes and the triplicate copy is to stay in the book which is to be returned to the NSWEC with the annual disclosure of donations and electoral expenditure.

7. Fundraising Ventures and Functions

- A fundraising venture is an event or function for the purposes of raising funds for an election campaign. Examples of fundraising ventures and functions include:
 - an auction
 - the sale of tickets for a raffle or dinner
- Expenditure incurred for a fundraising venture or function is electoral expenditure.
- Funds received from a fundraising venture or function are political donations.
- The following details of each fundraising venture and function must be recorded and disclosed:
 - the date(s) of the fundraiser
 - a description of the nature of the fundraiser (e.g. "Dinner with Candidate")

- the total number and total value of small political donations received at the fundraiser
- the details of each reportable political donation received at the fundraiser
- the details of electoral expenditure incurred for the fundraiser
- the net or gross proceeds from the fundraiser

8. Loans

- A loan is an advance of money, the provision of credit or any other transaction that in substance affects a loan of money.
- A reportable loan is a loan of \$1,000 or more including multiple loans totalling \$1,000 or more from the same person in the same financial year.
- A record must be kept of each loan including the name and address of the lender and the terms and conditions of the loan.
- Uncharged interest on a loan is a political donation.
- Uncharged interest is the difference between the [generally prevailing interest rate](#) and the rate that was paid in interest on the loan (if the rate that was paid is zero, or less than the generally prevailing interest rate).
- For example, if a person paid an interest rate of 5% on a loan, and the generally prevailing interest rate for that loan type is 10%, the uncharged interest is the unpaid 5% of the loan. So if the loan was for \$10,000, the uncharged interest amount is \$500. This is a \$500 donation from the lender to the person taking the loan.
- If the person paid no interest, then the uncharged interest is the full 10% of the loan, which (in this example) is an amount of \$1,000. This is a reportable political donation from the lender to the person taking the loan.
- The general prevailing interest rate is set by the NSWEC. Refer to the [NSWEC's website](#) for the current rates.

9. Membership and affiliation fees

- Membership and affiliation fees (also called party subscriptions) paid to political parties are political donations.
- A party subscription is:
 - an annual or other subscription paid to the party by a member of the party
 - an annual or other subscription paid to the party by an entity or other person (including an industrial organisation) for affiliation with the party.
- A party subscription paid to a party is not subject to the donation caps, except the amount of a subscription that exceeds the relevant maximum subscription as explained below.
- The maximum subscription in respect of membership of a party is \$2,000.

- The maximum subscription in respect of affiliation with a party is:
 - if the amount of the subscription is not calculated by reference to the number of members of the affiliate - \$2,000, or
 - if the amount of the subscription is calculated by reference to the number of members of the affiliate - \$2,000 multiplied by the number of those members of the affiliate.
- A party levy paid to a party by an elected member endorsed by the party is not subject to the donation caps.

10. Prohibited and Unlawful Donations

10.1 Identity of donors

- It is unlawful to accept a political donation from an individual or entity who is not entitled to make political donations.

10.2 Anonymous reportable political donations

- It is unlawful to accept a reportable political donation from:
 - an anonymous donor
 - a donor that does not provide their name and address at the time a donation is made
 - a donor if the person accepting the donation has reason to believe the donor's name and address is untrue.

10.3 Donations to more than 3 third-party campaigners

- It is unlawful for a person to make or accept political donations (whether for a State or local government election) to more than 3 third-party campaigners in the same financial year where the donation is paid into the third-party campaigner's campaign account.

10.4 Donations in excess of the donation cap

- It is unlawful for a person to accept a political donation that exceeds the applicable cap on donations (unless the donation, or the amount in excess of the cap, is paid into an account used for federal election campaigns).

10.5 Donations to independent candidates and groups

- It is unlawful for a political party (or a candidate or elected member endorsed by a party) to make a political donation to a candidate, or a group of candidates, not endorsed by that or any other party.
- It is unlawful for such a candidate or candidates to accept the political donation.

10.6 Not keeping a record of a loan

- It is unlawful for a person to receive a reportable loan (other than a loan from a financial institution), unless the person makes a record of the following:
 - the terms and conditions of the loan,

- the name and address of the entity or other person making the loan.

10.7 Prohibited political donations

- Certain industries are prohibited from making political donations in NSW (except in the form of membership or affiliation fees paid to a party that are not reportable political donations).
- Prohibited donations include loans (except where the loan is made by a financial institution).
- It is unlawful for:
 - a prohibited donor to make a political donation
 - a person to make a political donation on behalf of a prohibited donor
 - a person to accept a political donation made by a prohibited donor or by a person on behalf of a prohibited donor
 - a prohibited donor to solicit another person to make a political donation
 - a person to solicit another person on behalf of a prohibited donor to make a political donation.
- A prohibited donor is a corporation that is a property developer, a tobacco industry business entity, or a liquor or gambling industry business entity (or a close associate of such a corporation).
- A prohibited donor includes any industry representative organisation if the majority of its members are prohibited donors.
- A close associate of a prohibited donor includes (but is not limited to):
 - directors and officers of the corporation and their spouses
 - a person whose voting power in the corporation is greater than 20%.

10.8 Indirect campaign contributions

- It is unlawful for a person to make a donation, and for a person to accept a donation, that is an indirect campaign contribution valued at more than \$1,000 (or multiple things done or provided by the donor to the same recipient in a financial year that are valued at more than \$1,000).
- Indirect campaign contributions include:
 - provision of office accommodation, vehicles, computers or other equipment for an election campaign
 - paying for expenditure that is to be incurred by a party, elected member, candidate or group
 - waiving all or part of a payment of electoral expenditure for advertising to be incurred by a political party, elected member, candidate or group.
- Electoral expenditure for advertising is taken to be incurred by a party, elected member, group or candidate if the advertising is authorised by the party, elected member, group or candidate.
- The prohibition against making and accepting indirect campaign contributions does not include:
 - volunteer labour

- the incidental use of vehicles or equipment belonging to volunteers
- anything provided or done by a political party for candidates endorsed by that political party.

11. Electoral Expenditure

11.1 What is electoral expenditure?

- Electoral expenditure is expenditure for promoting or opposing a political party or the election of a candidate or candidates. It is also expenditure for the purpose of influencing the voting at an election.
- In the case of an elected member, candidate, group or third-party campaigner, electoral expenditure must be paid for by the official agent from the campaign account (if an account is required to be kept).
- In the case of a political party, electoral expenditure must be paid for by a person authorised by the party. Expenditure for a State election must be paid from the State campaign account. Expenditure for a local government election must be paid from the local government campaign account.

11.2 What is electoral communication expenditure?

- Electoral communication expenditure is a subset of electoral expenditure. It is electoral expenditure of the following kinds:
 - advertising
 - production and distribution of election material
 - internet, telecommunications, stationery and postage
 - campaign staff
 - travel and travel accommodation for candidates and staff engaged in electoral campaigning
 - research associated with election campaigns (other than in-house research)
 - office accommodation (other than for campaign headquarters of a party or the electorate office of an elected member).
- Electoral communication expenditure does not include the following kinds of electoral expenditure:
 - auditing campaign accounts
 - fundraising expenses.

11.3 Caps on electoral communication expenditure for State elections

- There are caps on electoral communication expenditure at State elections. The expenditure caps are adjusted for inflation every four years after a State general election.
- Electoral communication expenditure is capped during the capped State expenditure period for a State election.
- The capped State expenditure period for a State general election commences on 1 October, in the year before the election, and ends on election day. In the case of a

State by-election, the capped State expenditure period commences on the day the writ is issued for the by-election, and ends on election day.

- All adjusted expenditure caps for State elections (including by-elections) are shown on the [NSWEC's website](#).
- For the purpose of the expenditure caps, expenditure is taken to have been incurred when the services are provided or the goods are delivered.
- It is unlawful to incur electoral communication expenditure during a capped State expenditure period that is in excess of the expenditure caps.

12. Record Keeping

- All agents are required to keep proper accounting records to ensure accurate and complete disclosure of political donations and electoral expenditure. Failure to do so is an offence.
- All accounting records for an election campaign must be kept for at least 3 years following an election.
- The accounting records of candidates, groups, elected members, political parties, third-party campaigners and their respective agents may be subject to a compliance audit by the NSW Electoral Commission.

12.1 Accounting records for elected member, candidates, groups and third-party campaigners

- The official agent for an elected member, candidate, group and third-party campaigner must keep the following accounting records in respect of an election campaign:
 - Receipt and Acknowledgement Book
 - Cheque Book
 - Cash Book
 - Petty Cash Book
- These records must be kept for three years.
- The receipt and acknowledgement book is used to issue receipts for monetary reportable political donations and acknowledgements for non-monetary reportable political donations.

12.2 Accounting records of political parties

- Parties must keep the following accounting records at their headquarters in NSW:
 - Receipt and Acknowledgement Book
 - Cheque Book
 - Cash Book
 - Deposit Book
 - Ledger
 - Journal
- These records must be kept for three years.

- Party agents may apply to the NSWEC for approval for the party to keep an alternative system of accounting records for the political party.
- The receipt and acknowledgement book is used to issue receipts for monetary reportable political donations and acknowledgements for non-monetary reportable political donations.

12.3 Maintaining Computerised Records

- Accounting records may be maintained by means of a computerised system if:
 - the records comply with the requirements for keeping paper-based accounting records;
 - the entries are in chronological sequence;
 - the completeness of records can be verified, and;
 - a back-up copy of all records less than 3 years old is made at least once a month.

13. Cheque, Petty Cash and Cash Books for Receipts and Payments

13.1 Cheque Book

- The cheque book is used by agents to make payments for electoral expenditure.

13.2 Petty Cash Book

- The petty cash book is used by agents to record cash payments for items of expenditure of \$50 or less.

13.3 The Cash Book

- The cash book must be a book (or books) with consecutively numbered sheets.
- Use the cash book to:
 - record the receipt numbers for all receipts issued for political donations and the cheque numbers for all cheques drawn for electoral expenditure;
 - enter the particulars of all money received by way of political donations with respect to receipts;
 - enter the particulars of all money disbursed by way of electoral expenditure with respect to payments.
- At the end of each month the cash book is to be compared to the bank statement of the party's bank account or the elected member, candidate, group or third-party campaigner's campaign account and any items not in the cash book should be entered.

13.4 Deposit Book

- The deposit book must have deposit forms in duplicate.
- The following details must be recorded at the time of making a deposit at the bank:
 - date of deposit;
 - amount of the deposit;

- the form (cash, cheque etc.) of the deposit; and
- in the case of a deposit by cheque, the name of the drawer of the cheque.

13.5 Ledger

- The ledger must contain the particulars of all political donations received and electoral expenditure incurred.
- Each entry in the cash book and the journal with respect to political donations and electoral expenditure must be posted to the appropriate account in the ledger.
- At the end of each month each account in the ledger must be balanced.

13.6 Journal

- The journal must include the particulars of all adjustments made to accounts in the ledger. The particulars must be sufficient to identify each transaction.
- The deposit book, journal and ledger are to be used by parties only.

14. Advertising records

- Agents are required to keep video recordings with respect to all television and cinema advertising for a period of 12 months after the advertisement was last shown. Agents are also required to keep the following advertising material for at least 3 years.
 - the text from radio and internet advertising
 - a full page of the newspaper or periodical containing an advertisement;
 - a statement identifying the advertisement;
 - a listing of the name of each newspaper and periodical where the advertisement was published;
 - the size of the advertisement;
 - the date of each publication; and
 - a copy of any other printed items.

15. Disclosure Responsibilities of Agents

- Official agents and party agents are responsible for completing and lodging a form called a “Disclosure of Political Donations and Electoral Expenditure” following each financial year. Disclosure forms must be lodged by the due date which is 22 September. To do this, agents are required to:
 - complete the correct disclosure form issued by the NSWEC;
 - ensure the disclosure of donations, loans and expenditure is complete and accurate;
 - attach supporting documents for donations received and expenditure incurred (including copies of printed electoral material and advertising) to the disclosure
 - have the disclosure form certified by a registered company auditor (unless the stakeholder is eligible for a waiver or exemption from the audit requirement); and
 - submit the disclosure form to the NSWEC by the due date.

15.1 Lodging disclosure forms with the NSW Electoral Commission

- Agents must disclose to the NSWEC all political donations made and received and all electoral expenditure incurred during the 12-month period ending 30 June.
- In the case of an agent for a third-party campaigner disclosure is required of all political donations received and all reportable political donations made in the 12-month period and all electoral communication expenditure incurred in the capped State expenditure period for a State election or a local government expenditure period for a local government election.
- In the case of a party, elected member, group or candidate a disclosure form must be lodged even if no political donations were made or received and no electoral expenditure was incurred. In these cases, a 'nil' disclosure form must be lodged.
- A disclosure form will not be accepted by the NSWEC unless:
 - the correct disclosure form is used,
 - the disclosure form is signed by the agent,
 - the disclosure form is certified by a registered company auditor, and
 - the receipt/acknowledgement book is returned with the disclosure form,
 - copies of invoices or receipts for all electoral communication expenditure and copies of all printed electoral material and advertising is submitted with the disclosure form.
- In the case of a disclosure form for a party the following accounting records of the party must be submitted with the disclosure form:
 - A copy of the party's audited annual financial statements for the year,
 - A copy of the party's financial accounts,
 - A copy of the party's bank statements from all accounts held by the party for the year.

15.2 When to lodge disclosure forms

- Disclosure forms cover a 12-month period from 1 July to 30 June each year.
- Disclosure forms must be lodged with the NSWEC between 1 July and 22 September each year.
- Disclosure forms cannot be lodged early i.e. before 1 July. It is your obligation as an agent to ensure that the NSWEC receives your disclosure form by the due date.
- Failure to validly lodge a disclosure form by the due date is an offence. Party agents may be fined \$2,750 and official agents may be fined \$1,100. Alternatively, an agent may face criminal prosecution by the NSWEC and be fined up to \$22,000 in a court.

15.3 Disclosure Forms to be used

- As the disclosure requirements are slightly different for candidates, groups, elected members, political parties and third-party campaigners, it is important to use the correct disclosure form issued by the NSWEC.
- The NSWEC's disclosure forms are the only forms that will be accepted. The forms are published on the NSWEC's website from 1 July each year for the 12-month disclosure period just finished. If you cannot find or download the forms from the website, contact the NSWEC.

16. Disclosure Requirements

16.1 For Self-Funding

Candidates, groups and elected members must disclose the amounts contributed by the candidate, group member or elected member into their own campaign account as well as the terms of those contributions.

16.2 For Reportable Political Donations

- For each reportable political donation received you are required to disclose:
 - The name of the person or entity to whom, or for whose benefit, the donation was made,
 - the date the donation was made,
 - the name of the donor,
 - the residential address or registered street address of the donor
 - the ABN if the donor is not an individual,
 - amount or value of the donation,
 - type of donation,
 - the receipt/acknowledgement number.
- The Receipt and Acknowledgement Book containing the triplicate copy of each receipt / acknowledgement issued for reportable political donations is to be lodged with the disclosure form.

16.3 For Small Political Donations

- For small political donations received you are required to disclose:
 - The total number of small political donations received; and
 - The total amount or value of these donations.

16.4 Disclosure Requirements for Fundraising Activities

- For each fundraising event held, you are required to disclose:
 - The date or period in which the fundraiser was held;
 - A description of the nature of the fundraiser e.g. "Dinner with Candidate";
 - Net or gross proceeds (from the sale of tickets, auction of items etc.); and an indication of whether you have disclosed the net or gross proceeds;
 - All reportable political donations received in relation to the fundraising venture or function;
 - Total number and value of any small political donations received in relation to the fundraising venture or function.

16.5 Disclosure Requirements for Loans

- For each reportable loan received you must disclose:
 - The name and address of the lender;
 - The amount of the loan.

16.6 Electoral Communication Expenditure

- For all electoral communication expenditure incurred you must disclose:
 - Dates that expense was incurred (from and to);

- Name of supplier (in the case of campaign staff, this would be the employee, contractor or agency – whoever you are paying);
- Details of the product or service provided
- Total cost of the product or service, inclusive of GST.
- All receipts and / or invoices for electoral communication expenditure must be lodged with the disclosure form.

16.7 Other Electoral Expenditure

- You must disclose the total amount of expenditure for the following items:
 - Expenditure on the holding of election rallies;
 - Expenditure incurred on raising funds;
 - Expenditure incurred on auditing campaign accounts,
 - Any other electoral expenditure.

16.8 Disclosing Political Donations made to Others

- Political donations made to other candidates, groups, third-party campaigner's, elected members or political parties in NSW must be disclosed and include the following details:
 - Date donation was made;
 - Name of candidate, group, third-party campaigner, elected member or political party in NSW to whom, or for whose benefit, the donation was made;
 - Total amount of donation.

17 Lodging a disclosure form

17.1 Auditing Requirements

- Disclosure forms lodged on behalf of candidates, groups, elected members, political parties and third-party campaigners must be certified by a registered company auditor. In some cases, the NSWEC can waive this requirement (except for political parties). The auditor is encouraged to follow the guidelines for registered company auditors available on the NSWEC website.
- Registered officers and deputy registered officers of registered political parties, elected members, candidates, official agents and party agents are not permitted to audit a disclosure form.

17.2 Requesting an extension of time to lodge a disclosure

- Agents who are unable to lodge the disclosure form by the due date may request an extension from the NSWEC. The request must be made in writing by the agent and the request must be made before the due date for lodging the disclosure form. In addition, the request must state the reason for the requested extension and the proposed new date for lodging the disclosure form.
- The NSWEC will advise the agent in writing if the extension has been approved. Extensions cannot be approved over the phone.

17.3 Amending a Disclosure

- If you discover an error or omission after lodging a disclosure form, you may lodge an amended disclosure form.

An amended disclosure form must include the required vouching for any political donations and electoral expenditure that were not provided with the original disclosure.

An amended disclosure form must be certified by a registered company auditor.

17.4 Your disclosure forms may be subject to a compliance audit

- The NSWEC conducts compliance audits to identify whether an agent or other person has breached a legal requirement regarding political donations and electoral expenditure.
- If you lodge a disclosure form containing information you know to be false, you may have committed a criminal offence. If the NSWEC commence a criminal prosecution against you the maximum penalty is a fine of \$22,000 and/or imprisonment for up to 12 months.
- It is a serious criminal offence for a person to enter into or carry out a scheme to circumvent the requirements around political donations and electoral expenditure.

Assessment

In order to complete the training, potential agents must return to the Agent Online Training Program to complete the Assessment.