

Section 307 of the *Elections Act*

Section 307 of the *Elections Act*, SNS 2011, c 5 establishes the following offence:

False statement respecting candidate

307 *Every person is guilty of an offence who, during an election, knowingly makes, distributes or publishes a false statement of fact about a candidate's character or conduct for the purpose of influencing the election.*

A person commits a s. 307 offence if the statement they made is all of the following:

- publicly distributed, or published;
- about "a candidate's character or conduct";
- during an election (includes a by-election);
- known by the person to be false;
- and
- intended to influence the election.

The Chief Electoral Officer (CEO) does not have the authority to decide whether an offence has been committed or not; that is a matter for the courts. However, the *Elections Act* authorizes the CEO to investigate potential offences.

Section 287 provides that the CEO may "conduct an investigation into any matter that might constitute an offence under this Act." The investigation may be conducted on the CEO's own initiative, "or at the request of another person" (e.g. someone who has made a complaint about a potential offence). The CEO also has authority, under section 293, to determine that an allegation is frivolous or vexatious, and to dismiss the matter on that basis.

To initiate any enforcement action, the CEO must have reasonable grounds to believe that an offence of s. 307 has been committed or is about or likely to be committed.

The CEO must also consider:

- the nature and seriousness of the offence;
- if the matter is frivolous or vexatious;
- the need to ensure fairness in the election;
- if the right to freedom of speech which is protected by s.2(b) Charter would be breached by action;
- if there is a breach of s.2(b), is it a justifiable limit under s,1 of the Charter; and
- if action is in the public interest.

Not Included in s.307:

It is **not** considered to be a violation of s 307 if there is a false statement made about any of the following:

- a candidate's or party's political position on a matter;
- a candidate's or party's platform;
- a candidate's or party's commitments;
- a party or person other than the candidate.

If you have any questions regarding the contents of this Interpretation Circular, please contact:

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