

ELECTION 2015

Questions/Queries received and clarifications provided by the Election Cell on Election Code of Conduct/Procedure

The queries generally received by the Election Cell of the Institute along with the replies given, without disclosing the identity of the querist is given hereunder for general information of candidates and voters:

S. No.	Query	Reply
1	Whether the Election Code will be applicable to a candidate only after he files his nomination or even prior to that?	Election Code of Conduct is operative from 3 rd September, 2015 and is applicable to all members who intend to contest, irrespective of the date of picking up/submission of nomination form.
2	Whether Committee meetings can be convened by Council or Regional Council during currency of Election Code?	There is no bar for holding Committee meetings during currency of Election Code of Conduct, since the Election Code does not prohibit normal functioning of various organs of Institute.
3	Can a Chairman/ Secretary of a Committee/Regional Council (being a candidate) issue the notice under his name?	Notice can be issued with designation, and without the name of any contesting candidate
4	Several communications are received by the Institute in the name of Chairman Regional Council. Will it be correct for me to respond in the official stationery of the Institute to those letters in my official capacity? Further, to organize speakers for the seminars and workshops, it becomes necessary to write to them in my official capacity as otherwise these speakers, particularly from the Government will not come to attend. In this situation, whether I can write letters to them in my official capacity as Chairman Regional Council in the Institute's letterhead?	There is no bar for a Chairman of Regional Council responding to any communication received from various quarters, especially those received from the Government. What is required to be ensured is that if any communication is addressed to a voter/member of the Institute, it is advisable to avoid the name. In other words, such a communication can be sent with only the designation of the Chairman. In this process, one would not provide any basis for making allegation(s) on violation of the provisions of the Rules. As regards sending any communication to the Government authorities, there is no bar for using the name of Chairman. However, the position would change if any communication is intended to be issued to one or more persons.
5	Can Chairman of a Regional Council/ Branch (being a candidate) sign cheques/ certificates?	Signing of cheques and certificates is not prohibited since the Election Code does not prohibit normal functioning of various organs of

		Institute.
6	Whether Chairman of Regional Council/Committee (being a candidate) can sign multiple letters in his name sent to other organizations?	The letter can be signed as Team_____ Regional Council of ICAI or Chairman, _____ Regional Council of ICAI. If the said person is not a candidate, then Election Code will not apply to him/her. However, such letters should neither contain the name(s) of any candidate nor should be in the nature of electioneering for any candidate.
7	Whether names of Secretary and Chairman (being candidates) should be removed from the certificates to be distributed at a public function?	Certificates may be signed with designation (without name) subject to not being circulated at any function nor in a manner which smacks of publicity.
8	Whether emails can be sent by Chairman of Regional Council/Branch (being a candidate) from his/her personal email ID?	For official purposes, mails can be sent with designation and without name of contesting candidate through ICAI official email ID only and not through personal email IDs.
9	Whether Mobile No. of Chairman of Regional Council/Branch can be given in the emails sent by him communicating programmes of the Institute?	No
10	Can a Chairman of a Committee hold a training programme organized by the Committee?	The Election Code does not prohibit holding any Committee/Group meetings and the like. As such, so long as the proposed programme is held as that of a Committee meeting, the same is permissible. However, if it partakes the nature of a seminar/conference/workshop, the provisions of the Election Code come into operation. Besides, no election campaign shall be undertaken at such a meeting irrespective of whether TA/DA is claimed for participating in such a meeting.
11	Several Committee meetings are required to be held in the Region. Kindly let me know whether such meetings can be held and whether acting as Chairman in these meetings will be in accordance with the election code when the concerned Chairman of the Committee is also a contesting	There is no bar for holding any normal Committee meetings and chairing those meetings since the Election Code does not prohibit normal functioning of various organs of Institute.

	candidate?	
12	Whether a candidate can address GMCS class which has no Chartered Accountants as they are all still students and for that matter any social congregation whether no CA are there?	The GMCS Course per-se is not meant for the Chartered Accountants. However, in the context of the Election Code of Conduct, one needs to view the matter from the angle of whether by taking part, in any capacity, in such an event, a candidate is providing a basis/room for making any election related allegations.
13	Whether the photographs of elected representatives, who are prospective candidates, could be continued in the Regional Council's website?	No
14	Whether the archives of old issues of Regional Council's newsletters containing photographs of candidates can be continued in the Regional Council website?	No
15	Whether the photographs of members of Council and Regional Council displayed at Institute's premises should be removed?	No
16	What are the precautions to be taken while sending a goodwill message by a prospective candidate?	The name of the contesting candidate should not be mentioned. In the event of use of Institute's letterhead, no reference to his phone no./mobile no./email ID and the like should be made. His photograph should not be included. In case the message contains name of any contesting candidate, the same should be deleted at the time of circulation of the material. Deletion of name is not necessary if the material is meant for sale as a priced publication. The above restrictions will apply only if the elected representative is a contesting candidate. Goodwill messages can be restricted to seminar/conferences only.
17	Whether any manifesto issued prior to release of final list of candidates will be covered within the limit of sending only one manifesto?	While the date of issue of final list of candidates is 21 st October, 2015, however, the date of issue of final list of candidates needs to be taken from the angle that although one is not an ultimate candidate prior to that date, but once his name appears in the final list of candidates, he is deemed to have been an ultimate candidate right from the date of issue of first notification i.e. 3 rd September, 2015 in the instant election, and accordingly, his conduct may be viewed and determined.

18	Whether a manifesto or circular or appeal including SMS issued/repeated by any person other than the candidate himself would be considered as violation of Code?	Yes. However, para 1(f) of Election Code shall come into play.
19	Whether the restrictions placed on newsletters of ICAI will also be applicable to private publication brought out by the candidate?	The restrictions applicable to the organs of the Institute shall be equally applicable to any other forum/medium by whatever name called, which are run, controlled or managed by/for and/or on behalf of Chartered Accountants within or outside India. As regards use of column in the Newsletter, the code as contained in para 1(h) shall come into play.
20	Can a candidate moderate any yahoo group or other social media/networking site, like twitter/facebook/ whatsapp?	Yes subject to not mentioning himself/herself as contesting candidate neither seeking any appeal to voters on the basis/lines of religion, caste, creed, community, political or spiritual leadership or any other sectoral basis/lines nor any reference thereto in any manner whatsoever. However, para 1(g) of Election Code shall come into play.
21	Can a candidate give answer to any query of members either through email or yahoo group or other social media/ networking site, like twitter/facebook/ whatsapp?	Yes subject to not mentioning himself/herself as contesting candidate neither seeking any appeal to voters on the basis/lines of religion, caste, creed, community, political or spiritual leadership or any other sectoral basis/lines nor any reference thereto in any manner whatsoever. However, para 1(g) of Election Code shall come into play.
22	Can a candidate share important information (not related to election) with members through email or SMS or other social media/ networking site, like twitter/ facebook/ whatsapp?	Yes subject to not mentioning himself/herself as contesting candidate neither seeking any appeal to voters on the basis/lines of religion, caste, creed, community, political or spiritual leadership or any other sectoral basis/lines nor any reference thereto in any manner whatsoever. However, para 1(g) of Election Code shall come into play.
23	Can a candidate wish a member on his/her birthday/marriage anniversary through email or SMS?	Yes subject to not mentioning himself/herself as contesting candidate neither seeking any appeal to voters on the basis/lines of religion, caste, creed, community, political or spiritual leadership

		<p>or any other sectoral basis/lines nor any reference thereto in any manner whatsoever.</p> <p>However, para 1(g) of Election Code shall come into play.</p>
24	Can a candidate wish a member on festivals through email or SMS?	<p>Yes subject to not mentioning himself/herself as contesting candidate neither seeking any appeal to voters on the basis/lines of religion, caste, creed, community, political or spiritual leadership or any other sectoral basis/lines nor any reference thereto in any manner whatsoever.</p> <p>However, para 1(g) of Election Code shall come into play.</p>
25	Can I print my photo on visiting card for election purpose? What is the prescribed format of visiting card for election purpose?	<p>A visiting card is handed out in person only. That being the case, insertion of photo therein and its free distribution would amount to advertisement which is not permissible. As for format of visiting card, it should be of standard size. However, there is no prohibition for insertion of photograph in election manifesto.</p>
26	Can a contesting candidate merely participate in an event and interact from the floor?	<p>Interacting from the floor is not permitted.</p>
27	Can a candidate go for the programme organized by a Committee of the Institute where one may not be a speaker or may not be on dais but being the organizer, presence is required?	<p>While the Election Code of Conduct does not prohibit participation in the programmes being organized by one's own Committee, however, one has to ensure that one's role does not exceed or is not more than that of an ordinary participant.</p>
28	Can invitation for opening ceremony of new office of a member be sent to clients and professionals, in the name of contesting candidate?	<p>The invitation be in the name of "firm" with designation "Chartered Accountant". However, the circulation be limited to clients, relatives and friends.</p>
29	Election Code of Conduct restricts the participation in any party. Does it mean that if we go to any social gathering viz. Diwali meet, marriage party is prohibited and hence forth we cannot go to any social gathering?	<p>The term "Parties" used in the Election Code of Conduct as well as the Rules is in relation to election per-se and, as such, there is no bar for participation in non-election parties. However, if it is alleged with sufficient proof that such a non-election event has been used for the purpose of election/electioneering, then a different view would need to be taken. One has to take a call accordingly and use their wisdom.</p>

		Para 1(e) of Election Code shall come into play.
30	Can the name and photograph be allowed to be put in the brochure sent to members of a Club, as well as put up on flex boards at the Club, in respect of elections being held in the Club?	If any of the members of the Club are members of the Institute, then Election Code becomes operative.
31	What all matters can be covered in a manifesto?	Rule 42 of the Chartered Accountants (Election to the Council) Rules, 2006 provides the nature of information/details to be covered in a manifesto/circular, the manner in which such information/details can be disseminated to voters etc.
32	Whether a candidate can give press and electronic media interview?	Giving interview during the currency of the Election Code of Conduct is not permitted.
33	Whether accepting an invitation from ICSI or other professional bodies as a speaker on any subject result in violation of the code of conduct	Yes. While there is no bar for participation in such an event/ programme, as an ordinary participant, however, that event/ forum shall not be used for the purpose of publicity/ electioneering in any manner whatsoever. However, para 1(b) of Election Code shall come into play.
34	Whether a Central Council Member/Regional Council Member/Branch Managing Committee Member are allowed to promote his/her relative candidature in the official programmes of the Institute	No. Para 1(a) of Election Code does not permit any office bearers of Central Council, Regional Councils and Branches to use any infrastructure of the Institute and its organs for campaigning/canvassing/electioneering for the candidate or his/her authorized representative(s).
35	Whether a candidate can attend any public function to receive any award	No. Para 1(i) of Election Code prohibits a candidate from attending any public function to receive any award during the currency of the Election Code of Conduct.
36	Whether a candidate can organize meeting related to election at his office or residence	Organization of parties for the purpose of electioneering or even participation in any party or providing/ facilitating any form of entertainment, e.g., musical nights and the like, or religious/ spiritual events, with the direct and/

		or indirect involvement of a candidate or his authorized representative in any form/ manner whatsoever is prohibited. The only exception to this prohibition is any function/ event/ programme organized at own residence or office of the candidate himself. Meeting(s) by the chartered accountants in their own office or residence are permitted subject to the condition that the number of participants shall be restricted to generally 50 members and further that no refreshment other than tea/ coffee/ soft/ aerated drinks and snacks are served to such participants. However, the restriction on number of participants will not apply in case of an organization (including its sister concerns) employing 50 or more number of members in the said premises.
37	Whether a candidate can send pre-recorded messages/appeals through SMS/Voice Mail	No, since sending of such messages would not be on a one-to-one basis and as such would partake the nature of a circular thus defeating the very spirit of the Election Code of Conduct.

As regards action against violation, what is provided under the relevant Rule is treating of any alleged violation as a non-compliance of Council Guideline and accordingly referring the matter for investigation/examination by the Disciplinary Directorate, in terms of the disciplinary framework provided under the Chartered Accountants Act, 1949 and the applicable Rules framed thereunder. In order to have an effective delivery of justice, receipt of evidence along with complaint/information would go a long way. While referral of the alleged violation for investigation is a requirement of law, however, the most critical part of conduct of any election is the moral binding on the part of membership at large. In other words, non-participation in any of the event(s) which is violative of the Election Code of Conduct itself is not only a Great service to the Profession but also a Respect to the Election Code framed by the Council, which is mandated to govern the Profession.

Cooperation of candidates and members is sincerely solicited so as to maintain dignity and image of the profession.

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