

By-Law for the Revocation of EDA Recognition by the National Council of the Conservative Party of Canada

From the CPC Constitution Nov. 15, 2008.

5.1 The electoral district association is the primary organization through which the rights of members are exercised.

5.2 Recognition may be granted by National Council to one electoral district association in each federal electoral district, and such recognition may be revoked, pursuant to rules and procedures set out by by-law.

5.3 Electoral district associations shall comply with such requirements as to their governance, financial management and reporting, as may be implemented by National Council by bylaw or otherwise.

From the EDA Constitution Sept. 2006,

3. OBJECTIVES

3.1 The Association is guided by the following objectives:

3.1.1 Supporting and promoting the principles, objectives and policies of the Party and maintaining an effective Association for that purpose.

3.1.2 Providing organizational and financial support to the Party's candidate in (insert name of federal electoral district), in accordance with Article 14.2 of the Party Constitution.

3.1.3 Raising money and maintaining a fund to support the Association and assist candidates.

3.1.4 Actively identifying potential supporters and recruiting new members.

3.1.5 Encouraging the participation and recruitment of youth.

3.1.6 Complying with the obligations, and benefiting from the rights and privileges of being recognized by National Council.

16. DUTY TO UPHOLD CONSTITUTION

16.1 It shall be the duty of the board of directors to uphold and enforce the provisions of the Association Constitution.

PREAMBLE: The Party Constitution clearly sets out that EDAs are the primary organization through which the rights of members are recognized and through which the Principles, objectives, and policies of the Party can be met. National Council has, in consultation with the members, created an EDA Constitution which clearly sets out the objectives for an EDA and which includes a duty to uphold the EDA Constitution.

Recognition, and subsequent registration, grants an EDA considerable legal rights and responsibilities under the Canada Elections Act and the Income Tax Act. These legal rights and responsibilities place a duty on National Council to monitor the governance, financial management and reporting duties of an EDA.

In circumstances where an EDA is not fulfilling its legal obligations, is not upholding the EDA or Party Constitution, or is not adhering to the objectives of an EDA, National Council has an obligation to review and possibly revoke the recognition of the EDA. This by-law addresses such instances, and is enacted under Article 5.2 of the Constitution.

1.0 DEFINITIONS

1.1 "Executive Director" means the Executive Director of the Party;

1.2 "Party" means the Conservative Party of Canada;

1.3 “revoke” and “revocation” means the refusal of continued recognition to an EDA.

1.4 “electoral district association” or “EDA” means an association in a federal electoral district recognized by National Council pursuant to the Constitution.

1.5 All other terms used in this by-law which are defined in the Constitution of the Party have the meaning set out in the Constitution.

3.0 INITIATION OF EDA RECOGNITION REVOCATION

3.1 The process for revocation of a membership in the Party is instituted by a request of a voting member of National Council, or by request of a member of the Parliamentary Caucus of the Party, or by a petition signed by 10 members of the electoral district association to which the member or members who are subject of the request belong, to review whether there are grounds to revoke the recognition of an EDA. Any such request shall be sent in writing to the attention of the Executive Director and shall set out the basis for the request specifically. Items which may constitute grounds for a revocation review include, but are not limited to:

3.1.1 where an EDA is not fulfilling its legal obligations under the Canada Elections Act or the Income tax Act;

3.1.2 where an EDA is not upholding the Party Constitution; or

3.1.3 where an EDA is not upholding the EDA Constitution.

3.2 Upon receipt of a request, the Executive Director shall open a file and refer the request to the Secretary, unless the request is clearly irrational, sets out no grounds, or is otherwise an obvious abuse of the revocation process.

3.3 Upon referral of a request to the Secretary, the Executive Director shall transmit the request to the board of directors of the electoral district association in question asking for a response within 48 hours. The Executive Director shall also transmit a copy of the request to the members of the Secretariat Committee. The Executive Director shall distribute any responses received from the board of directors to the members of the Secretariat Committee.

3.4 Upon referral of a request to the Secretary, the Executive Director shall transmit to the Financial Agent of the EDA notification that the EDA’s recognition is under review and requesting an immediate statement of the financial position of the EDA. Included with the request will be details on the relevant provisions of the Canada Elections Act. The Executive Director shall distribute any responses received from the Financial Agent to the members of the Secretariat Committee.

3.5 The Secretary shall call a meeting of the Secretariat Committee of National Council to take place within seven (7) days of the deadline for receiving the responses referred to in section 3.3. In the event that the Secretary is unable or unwilling to call a meeting, the President of National Council shall call it and any subsequent meetings needed to resolve the issue(s) at hand.

3.6 At the meeting(s) referred to in section 3.5, the Secretariat Committee shall consider the original request for a review, the responses described in section 3.3 and 3.4 and any other documentation or information it wishes to examine or consider. The Secretariat Committee may hear further from the member(s) affected on such terms and conditions as the Secretariat Committee deems appropriate. Where the request originated from a member of National Council who is a member of the Secretariat Committee or where a member of the Secretariat Committee is a member of the board of the electoral district association which submitted the request or is himself or herself the subject of the request, that member shall not participate in any of the deliberations of the Secretariat Committee.

3.7 Subject to the provisions of the Constitution and this by-law, the Secretariat Committee shall determine the procedures to be followed in reviewing a request for recognition revocation. In particular, and without limiting the generality of the foregoing, the Secretariat Committee may:

- 3.7.1 meet and communicate with anyone separately or collectively;
- 3.7.2 determine whether a written record of the proceedings is to be kept, or not;
- 3.7.3 waive formal rules of evidence;
- 3.7.4 require any representations to be held in confidence by all parties;
- 3.7.5 obtain technical assistance or independent expert advice, subject to consideration of the costs to be incurred;
- 3.7.6 call any person, in the presence of all parties to the dispute or matter by way of telephone or video conference facilities or otherwise, to make representations on the issue in dispute or matter to be determined;
- 3.7.7 consider such written and/or oral representations as it may determine in its sole discretion.

3.8 The Secretariat Committee may close the file where it is of the view that the request is trivial, vexatious, made for an improper purpose, manifestly without substance, or does not warrant further consideration. Otherwise, the Secretariat Committee shall prepare a report on the matter with a recommendation for National Council. The Secretary or the Executive Director shall transmit the report to the members of National Council.

4.0 CONSIDERATION BY NATIONAL COUNCIL

4.1 Once the Secretariat Committee has transmitted a report under section 3.8 the President of National Council shall call a meeting of National Council within seven (7) days with notice that the purpose of the meeting includes consideration of a report concerning revocation of EDA recognition. No other business may be transacted at that meeting until National Council has deliberated on the report of the Secretariat Committee. An EDA's recognition may only be revoked upon two-thirds majority vote of those present and entitled to vote on the matter at National Council.

4.2 Where National Council revokes recognition, the Executive Director shall inform the Board of Directors of the former EDA immediately in writing, and shall inform them of their right to complain to the Arbitration Committee and of the manner in which the Chair or Vice-Chair of the Arbitration Committee may be contacted.

4.3 Where National Council revokes recognition, the Executive Director shall inform the Financial Agent of the former EDA immediately in writing requiring them to transfer all EDA funds to the Conservative Fund Canada forthwith. If arbitration has been filed as per section 6 the funds will be held by the Conservative Fund Canada in trust pending the result of the arbitration.

4.3 Where National Council revokes recognition and arbitration has not been requested under section 6, the Executive Director shall forthwith inform Elections Canada that the EDA has been de-recognized.

5.0 RECOGNITION OF A NEW EDA

5.1 National Council may not reinstate recognition of an EDA, but may recognize a new EDA as per its authority under the Party Constitution.

6.0 DISPUTE RESOLUTION

6.1 Subject to the provisions of this by-law, a decision of the National Council concerning recognition revocation is final and binding and shall not be subject to further review.

6.2 In the event that National Council revokes the recognition of an EDA, the board of directors of the former EDA may file a complaint with the Arbitration Committee of the Conservative Party of Canada by way of notice to the Chair or Vice-Chair of the Arbitration Committee within forty-eight (48) hours of being informed of the decision of National Council, on the basis that the requirements of the Constitution or this by-law were not adhered to.

6.3 National Council hereby refers to the Arbitration Committee, pursuant to Articles 19.4 of the Constitution, any unresolved dispute as to the exercise of the powers of the National Council to revoke recognition.

6.4 For greater certainty, if any dispute whatsoever arises out of or is made in connection with the revocation of EDA recognition and remains unresolved, any such dispute shall be and is hereby referred to the Arbitration Committee of the Party for reference to a panel of the Arbitration Committee for consideration and decision, and the provisions of the Constitution and any rules and procedures of the Party related to dispute resolution shall apply to any such proceedings, including the application of Article 19.6 of the Constitution of the Party that the decision of any Arbitration Committee panel is final and binding and is not subject to appeal or review on any ground whatsoever.