



# Overview of Elections Canada and the Electoral System

Briefing Book

To the attention of the Honourable Karina Gould  
Minister of Democratic Institutions

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# 1. The Chief Electoral Officer and Elections Canada

## 1.1. Electoral Legislation

Elections Canada is responsible for the administration of the *Canada Elections Act* (CEA), which governs the election of members of Parliament to the House of Commons. The CEA covers a broad variety of rules, including, but not limited to, the appointment and duties of election staff; how candidates are nominated; the regulation of political financing; voting days, times and locations; voting procedures at the polls and by special ballot; the counting of ballots; voter registration; and a number of offences under the CEA and related penalties for infractions.

The CEA has been amended periodically since 2000. In 2014, the *Fair Elections Act* (Bill C-23) made significant changes to various aspects of our electoral framework, some of which will be highlighted in this briefing book.

Further proposals to amend the CEA are contained in Bill C-33, tabled in the House of Commons by the Minister of Democratic Reform on November 24, 2016. This bill proposes to repeal certain changes introduced in Bill C-23, and also addresses new issues such as the pre-registration of youth and the expansion of voting rights for Canadians living abroad.

## 1.2. The Chief Electoral Officer

The Chief Electoral Officer (CEO) of Canada is an agent of Parliament who is directly responsible to that institution and independent from the government of the day. This independence flows from a range of provisions in the CEA, notably those related to tenure of the position and the specific process for removal of the incumbent, accountability mechanisms and financial independence.

The position of the CEO is currently vacant following the retirement of Marc Mayrand on December 28, 2016. The CEO is appointed by resolution of the House of Commons, which has traditionally been unanimous. Until a new CEO is appointed, Mr. Stephane Perrault is the acting CEO.

The CEO serves a 10-year term and may be removed only for cause by the Governor General on joint address of the Senate and House of Commons.

The CEO reports to Parliament on the administration of a general election, by-election or referendum and on his or her planned spending and expenditures. He or she also makes [recommendations to Parliament on legislative changes](#) that he or she considers beneficial. The CEO communicates with the government through the designated minister responsible for the CEA—currently the Minister of Democratic Institutions.

The CEO appears regularly before the House committees responsible for electoral matters—namely, the Standing Committee on Procedure and House Affairs in the House of Commons. He or she also appears from time to time before the Standing Committee on Legal and Constitutional Affairs in the Senate and any other committee upon request.

The CEO also provides technical advice to committees, upon request, on legislation and any other issue a committee is studying.

The other agents of Parliament perform primarily a “watchdog” function in overseeing the actions of the government of the day. The CEO is unique among them in that the mandate of Elections Canada includes a significant operational aspect—managing the delivery of federal elections, by-elections and referendums.

In recent years, the CEO and the other agents of Parliament have worked together to develop a common approach on various matters, such as government policies, that impact their independence.

### **1.3. Elections Canada’s Key Responsibilities**

Elections Canada’s duties cover both operational and regulatory matters.

#### **Operational matters**

- Administering federal electoral legislation.
- Exercising general direction and supervision over the conduct of elections and referendums.
- Maintaining the National Register of Electors.
- Ensuring that all election officers act with fairness, impartiality and in compliance with the CEA.
- Issuing to election officers the instructions that the CEO considers necessary for the administration of the CEA.
- Adapting any provision of the CEA if the CEO considers that an emergency, an unusual or unforeseen circumstance or an error makes an adaptation necessary, for the sole purpose of enabling electors to exercise their right to vote, or enabling the counting of votes.
- Implementing public education and information programs to inform electors about when, where and ways to register and vote, and how to prove their identity and address.
- Conducting public education and information programs on the electoral process for students at the primary and secondary levels.
- Carrying out studies on voting, including studies respecting alternative voting means, and devising and testing electronic voting processes for use in a future general election or by-election, subject to the approval of House of Commons and Senate committees.

- Providing legal, technical, financial and administrative support to the independent commissions responsible for the periodic process of readjusting federal electoral boundaries to ensure that representation conforms to the *Electoral Boundaries Readjustment Act*.

### **Regulatory matters**

- Issuing written opinions, guidelines and interpretation notes (OGIs) on the application of the CEA to political entities.
- Registering political entities, including political parties, electoral district associations, leadership contestants, nomination contestants of registered parties, as well as third parties engaged in election advertising, and providing instructions for the nomination of candidates.
- Calculating the amount of election expenses limits for candidates and political parties as well as the expenses limit for nomination contestants.
- Examining and disclosing the financial returns of political entities, including candidates, political parties, electoral district associations, leadership contestants, nomination contestants of registered parties and third parties engaged in election advertising.
- Reimbursing election expenses to candidates and political parties according to formulas laid out in the CEA.

## **1.4. Funding and Accountability of the Chief Electoral Officer**

Elections Canada is funded by and operates under two separate budget authorities.

The first is a statutory authority that draws directly from the Consolidated Revenue Fund. This authority funds all Elections Canada expenditures other than the salaries for permanent positions and is not subject to annual parliamentary approval. The statutory authority serves to recognize Elections Canada's independence from the government. It also ensures that Elections Canada has access to the funds required for electoral events, which may occur at any time.

The second budget authority is an annual parliamentary appropriation that covers only the salaries for permanent positions. This appropriation can be increased only with the approval of the Treasury Board.

The CEO is subject to all federal laws of general application, such as the *Access to Information Act*, the *Official Languages Act*, the *Public Service Employment Act*, the *Privacy Act* and the *Financial Administration Act*. Like any other government department or agency, Elections Canada participates in the Estimates process. This includes submitting Main Estimates, the Departmental Plan, the Departmental Results Report and the Quarterly Financial Reports.

In addition, the financial statements of the Office of the CEO are subject to annual audits by the Office of the Auditor General. The agency is also subject to the reporting requirements of the Receiver General, including those related to the Public Accounts.

However, because of Elections Canada's independence from the government and its statutory mandate, the CEO is exempted from a number of Treasury Board policies and directives. Other policies apply to the CEO, but in a manner that does not impede his or her independence or ability to carry out his or her mandate.

## **1.5. Elections Canada's Size and Governance**

The Office through which the CEO carries out his or her mandate (Elections Canada) normally includes some 500 employees working in the National Capital Region. This number rises to approximately 1,200 in the lead-up to and following a general election.

For each of the 338 electoral districts, he appoints a returning officer on the basis of merit for a renewable term of 10 years. He also hires and trains 32 field liaison officers to assist the returning officers. Returning officers are responsible for administering elections within their respective electoral district. They are also responsible for filling upwards of 285,000 specific election worker positions, an average of almost 850 positions in each of the 338 electoral districts. Of these, some 180,000 are staffed for election day. To fill these positions, returning officers must first turn to names provided by candidates of the registered political parties.

The CEO appoints the Broadcasting Arbitrator to allocate paid and free broadcasting time to the political parties and to resolve disputes about the purchase of advertising time during an election. The current Broadcasting Arbitrator is Mr. Peter S. Grant.

In the fall of 2013, the Elections Canada Advisory Board was established to provide advice to the CEO on matters relating to Canada's electoral system and its voting processes and to support a vigorous democracy that reflects the evolving needs and circumstances of Canadians. The mandate of the Advisory Board is to study and provide advice on such matters as the conduct of elections, electoral participation by both electors and political participants, regulatory compliance and electoral reform. The Advisory Board currently has 11 members, including two co-chairs: the Honourable Ian Binnie, former justice of the Supreme Court of Canada; and Sheila Fraser, former Auditor General of Canada.

## **1.6. Elections Canada's External Engagement**

In delivering its mandate, Elections Canada engages a number of stakeholders, including political entities, provincial and territorial electoral management bodies and specific groups of electors for whom access to the electoral system is a concern.

### **Advisory Committee of Political Parties**

The Advisory Committee of Political Parties (ACPP), chaired by the CEO and consisting of two representatives of each of the 17 registered political parties in Canada, is a forum for information, consultation and advice on federal electoral matters. Although its title and purpose were formalized by Bill C-23 in June 2014, the ACPP has been meeting regularly since it was created in 1998.



The purpose of the ACPP is to provide the CEO with advice and recommendations relating to the conduct of elections and the administration of the political financing regime. It has two main objectives: first, to foster and maintain an open dialogue and working relationship between Elections Canada and registered political parties in order to gain a better understanding of political parties' operational context, and second, to seek a collaborative approach to developing new initiatives.

The CEO meets formally with the ACPP at least once a year. Members are also consulted regularly throughout the year, through either teleconferences or workshops. A steering committee, which includes members of the ACPP, has also been established to help the agency establish priorities for [OGIs](#). The steering committee includes one representative from each party and meets at least once a year, usually during the ACPP's annual general meeting.

### **Advisory Group for Disability Issues**

In February 2014, Elections Canada launched an Advisory Group for Disability Issues (AGDI) to provide subject matter expertise and advice on accessibility initiatives for the 2015 federal election. The group also helped to identify the best ways to inform people with disabilities about when, where and ways to register and vote. The AGDI's work builds on consultations held in 2011–2012 with 19 organizations representing people with disabilities. It also complements Elections Canada's research on voting barriers faced by Canadians with disabilities.

AGDI members are leaders of organizations, invited as experts, and they participate in a personal capacity. They are selected based on their cross-disability and policy focus. Elections Canada chairs and serves as a secretariat for the AGDI by convening meetings and targeted consultations on improvements to electoral services.

### **Civic education and outreach**

As a result of changes introduced in the *Fair Elections Act*, Elections Canada's civic education mandate has been restricted to Canadians who have not reached voting age. According to the CEA, the CEO "may implement public education and information programs to make the electoral process better known to students at the primary and secondary levels."

Elections Canada fulfills this mandate by offering tools to help educators teach young people about democracy, government, electoral systems, civic engagement and active citizenship. By providing free resources and activities, Elections Canada seeks to ensure that teachers and students have sustained access to learning opportunities outside of the election cycle. Elections Canada also works with a variety of civic education and youth civic engagement organizations to give elementary and high school students access to participatory and experiential programming inside and outside the classroom. Elections Canada staff is currently renewing its civic education program for students under 18 years of age.

Should Bill C-33 become law, the CEO would be able to provide information and education programs to the public at large on a wider range of topics, including why it is important to vote. Elections Canada's intention is to resume some of its civic engagement and education activities with a particular focus on first-time voters, in collaboration with a wide variety of civic organizations. Bill C-33 would also allow Elections Canada to create a register of future electors, which would create new opportunities for proactive civic education.

Under the current CEA, the CEO may provide electors with information on where, when and ways to vote. Elections Canada uses research to establish target groups of electors who face barriers to the electoral system. These groups include youth, Indigenous electors, electors from ethnocultural communities (new Canadians), electors with disabilities, seniors in long-term care and electors who are homeless. Through the Electoral Reminder Program, Elections Canada engages with these groups to find the best ways to tell electors about when, where and ways to register and vote and how to prove their identity and address. For the 2015 general election, the agency also established partnerships with over 50 national and regional organizations serving its target groups of electors. Through formal contracts and verbal agreements, these organizations disseminated Elections Canada's information products electronically or through in-person briefings before and during the general election. These organizations also promoted the agency's online voter registration service in their pre-election communications and events.

### **Relationships with electoral management bodies**

Elections Canada works in collaboration with its provincial, territorial and international counterparts to address and discuss a wide array of issues, including governance and accountability, legislative trends, best practices and voter services.

The CEO chairs the Advisory Committee of Electoral Partners, which is composed of provincial and territorial CEOs. Elections Canada maintains data-sharing agreements with all Canadian provinces and territories; it regularly receives updates to the National Register of Electors from these sources, with the exception of Newfoundland and Labrador, and transmits its data to the provinces and territories. Elections Canada also produces, in consultation with the provinces and territories, the *Compendium of Election Administration in Canada*. The Compendium offers a comparative analysis of major provisions in Canadian election laws.

### **International involvement**

Elections Canada is a member of various international networks of electoral management bodies (EMBs) and participates in international forums that promote valuable exchange of information and expertise sharing on different aspects of electoral administration.

With a recently-legislated mandate to provide international assistance and co-operation to foreign EMBs, Elections Canada will be able to build on its strong reputation as a mature EMB to support and contribute to Canada's international efforts in advancing democracy.

## 2. Delivering the Election

Canada's electoral system is the product of an almost 150-year evolution, through which Canadians have achieved a universal, now constitutionally guaranteed, right to vote. Representation in the House of Commons is based on geographical divisions known as electoral districts, calculated by province and territory. Each electoral district is divided into polling divisions containing some 350 electors. In line with the redistribution of federal electoral boundaries, completed in fall 2013, the number of seats in the House of Commons rose to 338 for the 2015 federal election.

Since May 2007, the CEA provides for a general election to be held on a fixed date: the third Monday of October in the fourth calendar year following the previous general election. As the last general election took place on October 19, 2015, the next fixed election date is **October 21, 2019**. That said, the CEA does not prevent a general election from being called at another date.

A general election occurs when the Governor General dissolves Parliament at the request of the Prime Minister; the Governor General, acting on the advice of Cabinet, then sets the date of the election and the date by which the writs must be returned. By law, the time that elapses between the issue of the writs and election day must be a minimum of 37 days, including election day. There is currently no maximum length of time; for example, the 2015 general election was called on August 2, 2015, creating a 79-day election period.

### 2.1. Planning and Readiness

A federal general election is a massive operation whose success rests on the timely mobilization and deployment of human, material and technological resources in diverse environments across Canada.

The strategic planning process begins well before a general election—in fact, at the conclusion of the previous election. Elections Canada performs ongoing scans of its environment to assess changes in Canadian society and the agency's operating context. Using different types of research, and drawing on the experience of electors, poll workers and candidates, the agency can measure the success of its various initiatives and the progress it has made against its longer-term plans.

In the months following a general election, Elections Canada consults key stakeholders, such as political parties and groups of electors, to gather feedback that may help the agency establish its strategic direction for the next general election and recommend legislative improvements.

Specific improvement initiatives are then identified, made subject to formal business cases and, following a positive review, approved and funded. For the 43rd general election, these initiatives are grouped under the corporate priorities of electoral reform, electoral modernization and asset renewal.

As new initiatives are progressively integrated into the agency's election delivery programs, Elections Canada begins assembling the resources (people, supplies, equipment and information) required to prepare for and deliver a general election. This "ramp-up" process is referred to as election readiness. In March 2019, Elections Canada will put itself and its field staff in a state of election readiness leading up to the 43rd general election. Election readiness involves such things as:

- Conducting preparatory field work, including validating the new electoral maps (polling divisions), selecting over 17,000 polling places and ensuring that the places meet accessibility standards.
- Reviewing, reprinting and restocking election supplies and manuals for election workers.

## **2.2. The Logistics of an Election**

Elections Canada prepares and delivers a suite of services to electors and candidates from some 17,000 polling places across Canada during general elections. It also uses a network of 500 local offices (including satellite offices in large, sparsely populated districts), which operate during the writ period and on election day.

In every electoral district, a returning officer is responsible for the local administration of the election. Elections Canada provides them with policies, procedures, operational data and technology. Returning officers rent offices, make arrangements for polling places, hire and train staff—up to 30 in a typical office—and serve electors and candidates under the general direction and supervision of the CEO. By election day, each returning officer has recruited and trained an average of 700 election workers.

When returning officers select polling places, they must carefully balance accessibility, proximity and familiarity to electors. In 2010, the Canadian Human Rights Tribunal ordered Elections Canada to cease renting facilities that were not barrier-free. In many parts of the country, this can be achieved only at the expense of proximity and familiarity.

### **Voter registration services**

Since 1997, Elections Canada has maintained the National Register of Electors. This is a digital directory containing the name, address, gender and birthdate of Canadians who are eligible to vote; it is updated periodically through information-sharing agreements with various federal and provincial agencies and departments. The Register is used to create the preliminary lists of electors when an election writ is issued. Electors whose names are on the preliminary list of electors at their current address receive the voter information card (VIC), giving them the address of their polling station.

Otherwise, when an election is called, electors have about four weeks to register or update their registration. Returning officers also update the lists of electors for their electoral district during the revision period. Targeted revision is conducted in specific areas, including high-mobility areas, new developments, areas with low demographic coverage, shelters and long-term care facilities. Introduced in April 2012 and updated in time for the 2015 general election, the agency's Online Voter Registration Service allows electors to check if they are registered, update existing registration information, or register for the first time with the use of their driver's licence number. Otherwise, they can register on election day at their polling station.

## **Voting services**

When designing services for electors, Elections Canada must account for the social, demographic and geographic diversity that returning officers face, and it must adapt its service delivery without compromising its compliance with the CEA.

Canadians can vote using three methods:

(1) at a polling station on election day: An elector can vote only at the polling station set up for his or her polling division. In densely populated urban settings, many polling stations are usually grouped into a central polling place.

(2) at an advance polling station on the second weekend before election day (some 3,674,000 electors chose this option in 2015): For advance voting purposes, polling divisions are grouped into advance voting districts. Each district has an advance polling station assigned to it. Once again, an elector can vote only at the advance polling station assigned to his or her polling division.

(3) by special ballot, at any time during the election, either in person at a local returning office or by mailing their ballot to Elections Canada in Ottawa. The CEA also has special provisions for Canadian Forces electors and electors who temporarily reside abroad or are incarcerated to vote by special ballot. In total, approximately 600,000 electors voted by special ballot in the 2015 general election.

In exceptional circumstances, Elections Canada has allowed returning officers to deploy special ballot kiosks in designated areas for electors to register and vote at for a certain length of time during the writ period. These locations have traditionally included work camps in the north and acute care hospitals. For the 2015 general election, Elections Canada also allowed special ballot voting kiosks in some 40 post-secondary educational institutions across the country.

The CEO appoints a Special Voting Rules Administrator (SVRA), who is responsible for the administration of special ballot voting services for absentee voters and Canadian Forces, incarcerated and expatriate electors. Located in Ottawa, the SVRA's office issues and receives mail-in ballots during the election and coordinates with the Canadian Forces, Global Affairs Canada and provincial correctional departments. On election night, ballots are counted and results are sent to each returning officer for addition to the results gathered from the polling stations.

## Communication campaign

When an election is called, Elections Canada launches a comprehensive multimedia communication campaign known as the [Electoral Reminder Program](#) to inform electors about when, where and ways to register and vote. It provides information to both the general population of electors and the specific groups of electors who may face barriers to voting such as Indigenous people, youth, ethnic communities and seniors. For the 2015 general election, the communication channels included a new, election-specific website, a multimedia advertising campaign, digital and print information products, direct mail, social media, and national and local outreach. The Electoral Reminder Program is also supported, on the ground and across the country, by regional media advisors. They work with the media relations team at Elections Canada headquarters and alongside field administrators to respond to regional and local media requests.

For the 2015 general election, a network of community relations officers (CROs) was once again recruited to conduct local outreach activities with target groups. CROs interact directly with electors in electoral districts where significant segments of the population experience barriers to the electoral process. They are responsible for promoting the Online Voter Registration Service; providing basic election information, with specific emphasis on the voter identification requirements; and supporting the use of the Letter of Confirmation of Residence, as appropriate.

## Reporting results

Following the close of polls, the ballots are counted in the polling stations by the deputy returning officer in the presence of the poll clerk and observed by the candidates or their representatives or, if none are present, at least two electors. The outcome of the election is known within a few hours of the close of polls. On election night, preliminary results are published on the Elections Canada website and shared with a media consortium for live broadcast.

## 2.3. Post-Election Activities

### Validation of the results

The validation of the results is conducted by the returning officer, generally in the week following election day. The returning officer verifies the tabulation of the individual and total results recorded and reported by the Statement of the Vote for each poll.

The CEO has no authority to correct or otherwise alter results that have been validated by a returning officer. The only review mechanisms allowed for validated results are a judicial recount and a contested election application.

### Judicial recounts

A judicial recount is a new tabulation of the votes cast for an electoral district, presided over by a judge of a superior court of the province or territory. A judicial recount must take place if the leading candidates in an electoral district receive the same number of votes after the validation of the results or if they are separated by less than one one-thousandth of the total

votes cast. It can also be requested by any elector if there is evidence of an error in the original count. Following the 2015 general election, out of 338 electoral districts, there were five judicial recounts, all of which confirmed the initial results; none of them were automatic recounts.

Judicial recounts deal solely with the counting and tabulation of votes.

### **Contested elections**

All concerns respecting the regularity of an election—other than matters that are handled through judicial recounts—are addressed through the contested election process. This includes concerns about fraud or irregularities in the electoral process. After a person is declared elected, any elector who was eligible to vote in an electoral district, or any candidate in that district, may bring an application for a contested election before a judge. In a contested election proceeding, a judge is required to determine whether the person who won the election was eligible to be a candidate or whether there were any other irregularities, fraud or corrupt or illegal practices that affected the result of the election. The CEO, the Attorney General, the respective returning officer, the candidates in the election and the person bringing the application are all parties to a contested election proceeding. At the end of the court proceeding, the judge either dismisses the application or invalidates the result of the election. This decision can be appealed directly to the Supreme Court of Canada.

### **Mandatory independent audit**

In 2014, Bill C-23 introduced the requirement for a mandatory independent audit to be carried out for each general election and by-election to report on whether the deputy returning officers, poll clerks and registration officers properly exercised their powers and performed specific duties and functions. Those duties include validating elector documents stating identity and residence, registering electors on polling day, administering attestations of residence by an attesting elector who lives in the same polling division in the same electoral district, and record keeping.

In preparation for the 2015 general election, the CEO commissioned PricewaterhouseCoopers (PwC) to conduct the independent audit. The conclusions of the audit were presented to Parliament in September 2016 as an appendix to the *Retrospective Report on the 42nd General Election of October 19, 2015*.

### **Accounting for the Election**

The CEO published three reports to provide a comprehensive perspective on the 2015 general election.

- *Report on the 42nd General Election of October 19, 2015*: The first in the series, which the CEA requires is a factual chronology of the election. It includes an explanation of the evolution of the federal electoral framework since the 2011 general election, the integration of amendments to the CEA into the preparations for the 2015 election and basic information on the election results.

- *Retrospective Report on the 42nd General Election of October 19, 2015*: The second report, released in September 2016, presents a retrospective of the election. It includes an overview of the experiences of electors (including their experience with the voter identification requirements) and political entities. The report also includes observations about electoral administration challenges, electoral integrity and compliance at the polls. It is complemented by two annexes: the Overview of Public Opinion Research Studies and the Audit of Poll Workers' Performance.
- [\*An Electoral Framework for the 21st Century: Recommendations from the Chief Electoral Officer of Canada Following the 42nd General Election\*](#): The third and final report, tabled in Parliament in September 2016, presents the CEO's recommendations for improving Canada's electoral framework. This report is made under s. 535 of the CEA, which provides that, after a general election, the CEO shall set out any recommendations on amendments that are, in his or her view, desirable for the better administration of the CEA. The Standing Committee on Procedure and House Affairs' review of the report is ongoing.

### **The case for modernizing voting services**

The way in which the vote is administered in Canada has largely remained unchanged since the secret ballot was introduced in 1874, despite considerable social and technological evolution. The process is entirely paper-based and relies on the work of almost 300,000 Canadians, recruited days before polling day with limited opportunity for training. Combined with increasingly complex record-keeping requirements, the system is naturally labour-intensive and error-prone. At the same time, the rigidity of the legal framework means that services cannot be adapted to local realities or the fluctuation of service demands across the various advance and ordinary polling days. This results in unnecessary wait times for electors and difficult working conditions for poll workers.

Elections Canada, along with provincial jurisdictions, is proposing a new and more flexible service model that leverages basic technology to reduce wait times and administrative errors.



## 3. Regulating the Election

Regulating the election involves three key components: regulating the voting process, political financing and enforcement.

### 3.1. Regulating the Voting Process

#### Instructions, adaptations and training

Regulation of the voting process, including the roles and responsibilities of election officers at the polls; the procedures to be followed in administering the vote; and the procedures for closing the polls and safeguarding election documents, is subject to detailed prescriptions in the legislation that cannot be amended without the intervention of Parliament.

These provisions are supplemented or operationalized, where necessary, through instructions issued by the CEO to returning officers and other election officers. These instructions provide detailed and comprehensive steps that must be followed, for example, with respect to updating the lists of electors (the revision process) and administering the vote by special ballot, both at advance polls and on election day.

In addition to his or her instruction power, the CEO has the ability to adapt aspects of the CEA during an election period or for 30 days afterwards. This ability enables electors to exercise their right to vote or enables the counting of votes if an emergency, unusual or unforeseen circumstance or error makes such an adaptation necessary. During the 2015 election, the CEO made eight adaptations, which are published on the Elections Canada website.

Between election periods, Elections Canada implements training and infrastructure to ensure that returning officers are prepared when an election is called. The task is challenging and has become more so in recent years as new legislative provisions have added responsibilities and complexity to the jobs of election officers (notably, the voter identification requirements added in 2007).

#### Voter identification

In order to vote at an ordinary or advance poll or at a local returning office in federal elections and by-elections, electors must prove their identity and address in one of three ways. Under the first option, electors can show one piece of government-issued identification with their photo, name and address. Under the second option, electors can show two pieces of ID from the list of identification authorized by the CEO; both pieces must include their name, and at least one must include their address. As a third option, electors who lack authorized documentary proof of address may present two pieces of ID proving identity, sign an oath and have another elector attest to his or her residence. This person must live in the same polling division, show documentary proof of identity and address, and attest only for that person.

Bill C-23 introduced changes with respect to voter identification, including a prohibition on the use of the voter information card (VIC) as a piece of ID. Additionally, amendments to the CEA eliminated the vouching process and replaced it with the attestation process described above. Bill C-33 would repeal these changes.

## **Electoral integrity**

Elections Canada's mandate includes safeguarding the integrity of the voting process by ensuring that poll workers follow proper procedures at the polls and preventing any improper interference with the rights of electors.

During the 2011 general election, deceptive communications with electors (robocalls) and procedural errors made by poll workers raised integrity concerns. These prompted Elections Canada to launch, ahead of the 2015 general election, an electoral integrity program that would strengthen its capacity to detect and respond to incidents that could interfere with the electoral process and that would improve poll workers' compliance with procedures.

Before and during the 2015 general election, Elections Canada informed electors, political entities and election workers of its efforts to detect illegal or deceptive campaign practices. Vigilance and reporting were major themes in these messages. Based on our monitoring, there was no evidence of systemic integrity issues during the election. The agency also undertook a number of initiatives to improve compliance with polling procedures. As noted above, the independent audit of poll workers' performance found that, overall, election workers properly performed their duties.

In preparation for the next general election, Elections Canada continues to support the development of quality and risk management frameworks and to address integrity-related incidents.

## **3.2. Political Financing**

The political financing regime in the CEA is built around three core values: fairness, transparency and preventing the undue influence of money. These core values are primarily supported by the following measures:

- Limits on contributions from eligible individuals (\$1,500) and a complete ban on corporate and union contributions.
- Public funding in the form of tax credits for contributions and partial reimbursement of election expenses.
- Financial reporting requirements, which include the annual reports of political parties and electoral district associations; the event-based reports that must be submitted by political parties, candidates and third parties, including a compliance audit by registered parties' external auditor on party election expenses returns; as well as the reports of nomination contestants and leadership contestants.

## Spending limits and reimbursement of expenses

The CEA provides for distinct election spending limits for parties and candidates. The limits apply to the total of all election expenses, whether paid, unpaid or accepted as non-monetary contributions or transfers. The limits, which are calculated differently for political parties and candidates, are based on the number of names on the lists of electors for each electoral district and the number of electoral districts in which a political party is sponsoring candidates. Third parties (i.e. individuals or groups other than registered parties, candidates and registered electoral district associations) are also subject to spending limits. These limits, however, apply only to election advertising expenses. In all cases, the limits are adjusted to take into account the length of the election period.

In the 2015 general election, the highest election expenses limit for a party was \$54,936,320.15, and the highest election expenses limit for a candidate was \$279,227.99. The advertising expenses limit for third parties was \$439,410.81, of which no more than \$8,788.22 could be spent in a particular electoral district.

Registered political parties that receive 2 percent of the overall vote, or 5 percent of the vote in electoral districts where they endorsed candidates, are eligible for partial reimbursement of their paid election expenses (50 percent). Candidates must be elected or receive 10 percent of the vote to be eligible for reimbursement (60 percent of eligible expenses). In both cases, reimbursement is conditional on having met reporting obligations. Third parties are not entitled to any reimbursement.

## Increasing complexity

The current regime is largely the result of successive reforms in 1974, 2000, 2003, 2006 and 2014. While these reforms have established a comprehensive political financing regime, the complexity of the rules is a significant challenge for participants in the process. For example:

- Because annual contribution limits are set for contributions and loans to various entities, political participants may be forced to reimburse contributions that they believed to be legal because there is no realistic way of knowing whether their contributors have already given to others.
- Distinctions between various categories of expenses (electoral campaign expenses, election expenses, personal expenses) are difficult to understand, yet are critical to the regime. For example, only election expenses are subject to spending limits.

## Role of the official agent

The political financing regime for candidates is built around the role and responsibilities of the official agent, who is responsible for a campaign's financial transactions and reporting. Because official agents are unknown to Elections Canada before the election, it is difficult to train them in advance. While the agency produces manuals and web tutorials, the official agents learn the rules as they go along, often too late to ensure compliance. Many, if not most, will never again act as an official agent.

## **Supporting financial compliance**

Elections Canada strives to help political entities comply with the rules. This includes producing and updating training material, answering questions from the campaigns during and after the election and helping ensure that their financial reports are complete and accurate. Given the number of candidate returns (1,800 for the 2015 general election, for example) and the challenges of sorting out the facts and obtaining the supporting documentation, this work can take several months (sometimes more than a year) after the election to complete. Long delays have an impact on the transparency of the election and, in cases of non-compliance, on the effective enforcement of the regime.

The complexity of the rules also poses challenges for the consistency of their application. This is especially so where Elections Canada may be tempted to show flexibility in interpreting the rules to help political entities escape the harshness of the law in seemingly benign circumstances, but with potentially more significant consequences for the integrity of the regime in other situations.

## **Written opinions, guidelines and interpretation notes**

Bill C-23 introduced the requirement to issue written opinions, guidelines and interpretation notes (OGIs) on the application of the CEA to registered parties, electoral district associations, candidates, nomination contestants and leadership contestants. OGIs may be issued at the request of a political party, or on the CEO's own initiative, following consultations with all registered parties and the Commissioner of Canada Elections (CCE). Elections Canada must respond to all OGI requests from political parties.

OGIs fall into two categories: (1) written opinions and (2) guidelines and interpretation notes. Written opinions are issued only at the request of a political party (through its chief agent) and indicate the legal implications under the CEA of a specific activity that a political entity proposes to engage in. Written opinions are binding on the CEO and the CCE.

Guidelines and interpretation notes are more generic, are for information only and can be issued either on Elections Canada's initiative or at the request of a political party. Guidelines and interpretation notes address a particular provision (or closely-related provisions) of the CEA and are developed to provide a general explanation of Elections Canada's treatment of a certain type of activity under the CEA. Guidelines and interpretation notes are not binding.

For the 2015 general election, Elections Canada also issued manuals on political financing rules for political parties and candidates, as well as a number of interpretation notes on specific topics (e.g. election advertising on the Internet).

### 3.3. Enforcement

The CCE is appointed for a term of seven years by the Director of Public Prosecutions (DPP), pursuant to the CEA, and is responsible for ensuring that the CEA and the *Referendum Act* are complied with and enforced. The CCE conducts investigations of alleged offences and, where appropriate, refers matters to the DPP for possible prosecution. The current CCE, Yves Côté, assumed his responsibilities on July 3, 2012.

The CCE receives complaints from the public and from within Elections Canada. For example, Elections Canada's Political Financing sector may report potential offences under the CEA that are identified during audits of the parties' or candidates' financial returns.

The CCE position was created in 1974 and was originally restricted to ensuring that the rules concerning election financing and expenses were enforced. In 1977, the CCE's responsibilities were extended to cover all provisions of the CEA. In 2006, the *Federal Accountability Act* transferred the authority for prosecution of offences under the CEA to the DPP. In 2014, the CEA was amended so that the CCE would no longer be appointed by the CEO and would be relocated from within the Office of the CEO to within the Office of the DPP. Bill C-33 would bring the CCE back within the Office of the CEO.



# Reference Documents

## 1. The Electoral Cycle at Elections Canada

