



Written Opinions, Guidelines and Interpretation Notes

Guideline: 2019-04

Political Financing Handbook for Electoral District Associations and Financial Agents

Comments made during consultation period of March 26 to May 9, 2019

Comments received from the Liberal Party of Canada	Elections Canada response to the Liberal Party of Canada
<p>In addition to comments previously provided for recent handbook updates, please find our incremental comments below for the Electoral District Associations and Financial Agents Handbook.</p> <p>p. 10: In the middle text box labelled “Applying for registration,” it uses the term “chief executive officer.” While that term has likely been in use since January 1, 2004, the CEA does not define the term “chief executive officer.” Perhaps to add clarity, following the use of the term “chief executive officer” could be added “of the electoral district association”? This term is also used on page 14.</p>	<p>The handbook refers to the “association’s chief executive officer” on pages 10 and 14. Elections Canada believes the current wording adequately indicates that the person in question is the chief executive officer of the electoral district association.</p>
<p>p. 19: Footnote 3 references and states a candidate may transfer property, services and funds to their own nomination contestant campaign for the same election. Given the electoral process, a nomination contestant would be a nomination contestant prior to being a candidate, and we are uncertain how an individual could be a candidate if they haven’t completed a party’s nomination process. In other words, we don’t understand how this type of transfer would occur.</p>	<p>It is useful to note that a nomination contestant cannot close their campaign until all financial obligations are met, which may occur long after the selection date. Furthermore, a person is deemed to be a candidate as soon as they conduct financial transactions for their election campaign. This means the two campaigns may overlap, including for a period before the nomination contest or election. A candidate may wish to send transfers from their election campaign to their nomination campaign—for example, to pay outstanding debts after the contest.</p>
<p>p. 19: Footnote 8 might be better worded as, “Registered parties may transfer property, services and funds to registered/unregistered electoral district associations.” As worded in the draft, one might believe the “whether registered or not” term could apply to both the party and the electoral district association.</p>	<p>Elections Canada believes the current wording is adequate. If an unregistered political party misunderstood the footnote and made a transfer to an affiliated electoral district association, they would still not be in violation of the <i>Canada Elections Act</i>.</p>

<p>p. 20: It would be useful to add to bullet seven, which discusses partisan advertising, that such advertising is incurred during the pre-election period, and perhaps reference chapter 7.</p>	<p>As suggested, the words “during the pre-election period” have been added. In keeping with other bullets in the list, a chapter reference has not been added.</p>
<p>p. 27: In the first chart showing contribution limits with a “what to do” column, perhaps in the line for “Contributions over \$200” could be added the sentence, “These contributions will be individually disclosed on the Elections Canada website following receipt of the electoral district association’s annual return.”</p>	<p>The following note has been added below the table: “When total contributions from an individual are over \$200, their name, partial address and contribution amounts as disclosed in the financial return will be published on the Elections Canada website.”</p>
<p>p. 29: In the example where Clara is contributing to both the registered association and the candidate’s campaign, it should be stated the \$300 receipt issued from Peter’s campaign will only be eligible for income [tax] purposes if the contribution had been made following the candidate registering with the electoral district Elections Canada returning officer.</p>	<p>The candidate handbook includes an example of an official agent issuing a tax receipt to Clara for a contribution made after the candidate is confirmed. For the association handbook, the example simply intends to show that separate receipts are issued by the relevant recipients.</p>
<p>p. 39: In most other areas of the handbook, the flowchart is typically shown after the examples. We suggest Flowchart 2 be relocated to after the examples currently showing on page 40.</p>	<p>Flowchart 2 is located before the examples for desktop publishing purposes.</p>
<p>p. 40: The first example provides that for a \$500 contribution, an individual will be granted one-on-one access to a high-profile candidate. While the example is correct in its review of contribution rules for both <i>Canada Elections Act</i> and <i>Income Tax Act</i> purposes, the example also implies individuals being able to purchase access, which is undesirable.</p>	<p>As this is a situation that sometimes occurs among the various political entities, Elections Canada believes it is important to explain that the full amount given would be a contribution and not eligible for a tax receipt.</p>
<p>p. 41: The second example of an association organizing an event to benefit a nomination contestant is a little unusual, as associations are supposed to be neutral as it pertains to nomination contestants. Perhaps a better example would be organizing the event to benefit the candidate.</p> <p>In the third example, perhaps the last sentence could be slightly modified to read, “This event would be regulated if a person had to buy a whole table at \$1,200 because the cost required to attend would be more than \$200.”</p>	<p>As suggested, in the second example, “nomination contestant” has been changed to “candidate” to reflect the neutral role of associations in nomination contests. Elections Canada believes the wording of the third example is adequate.</p>

<p>p. 55: We believe examples should be provided in the “What is partisan advertising?” section, as it pertains to the exclusion of “issues advertising” messaging discussed in the third paragraph of that section. For example, if an EDA were to take a position against a carbon tax without referencing a political party or leader, would pre-election advertising on this matter be excluded from Elections Canada’s definition of partisan advertising and thus not count towards the spending cap?</p>	<p>Elections Canada has not included examples of issue advertising by associations, as we expect it will be rare. This is because any identification of a political entity (either in the ad or on a web page linked from the ad) will result in the ad being partisan advertising.</p> <p>What is more, electoral district associations have many other ways to conduct partisan advertising without it counting toward the registered party’s limit. This includes running ads that promote or oppose the election of a potential candidate (who is not the party leader) or that promote or oppose a party locally. They are also able to transfer funds to other associations for advertising purposes. These are the most likely ways that associations will conduct advertising.</p> <p>In spite of the above, if an electoral district association were to run a national issue-based ad during the pre-election period without in any way identifying a political party, leader or potential candidate, it is true that the ad would not be partisan advertising or count toward the registered party’s spending limit.</p>
<p>p. 57: The section “Partisan advertising in various situations” is new and somewhat complicated. To assist electoral district associations in understanding their obligations, we believe it would be helpful to include at the beginning of the section a clear summary of what EDAs can and cannot do vis-à-vis partisan advertising. In other words, examples of which entities can be promoted by the EDA and where. The table on page 59 is helpful, but readers would benefit from an even simpler explanation at the start of the section.</p>	<p>Given the many factors that weigh into how, when and for whom electoral district associations can legally conduct partisan advertising, there is a risk that simplification will lead to non-compliance. Elections Canada feels the table on page 59 is an adequate summary.</p>
<p>To the examples in this section we suggest two others be added. The first would be an EDA, say in the Ottawa/Gatineau region, purchasing a newspaper advertisement in a single newspaper that could be seen by voters in possibly 10 or more electoral districts. The second example would be an EDA in the GTA purchasing advertising with a radio station that is accessible over the airwaves in the GTA.</p>	<p>Two examples have been added in line with your suggestion.</p>
<p>p. 58: In the second paragraph it states partisan advertising has to be authorized by the financial agent or an authorized electoral district agent and that the authorization has to be mentioned in or on the partisan advertising message. It would be useful to have the possible phrases an EDA could use for this purpose, similar to the examples provided in the Candidate and Party handbooks.</p>	<p>The following text has been added: “for example: ‘Authorized by the financial agent of the XYZ Riding Association.’”</p> <p>While electoral district agents can also be authorized to conduct partisan advertising, this wording is suggested since such a delegation does not limit the financial agent’s responsibility.</p>

<p>p. 61: Immediately following the section with the label “Incurring election expenses on behalf of the candidate or the party”, we believe the first paragraph should be slightly reworded to emphasize that an electoral district association’s ability to incur election expenses is more the exception than the norm. As such, the first sentence might read, “An electoral district association of a registered party, whether the association is registered or not, <i>cannot incur</i> election expenses unless done on behalf of the candidate or the party.” The second sentence would remain the same.</p>	<p>The text has been modified as suggested.</p>
<p>p. 65: Acknowledging the regulation of voter contact calling services largely rests with the CRTC, electoral district associations also have obligations with respect to the Do Not Call List and ADAD regulations. These are well explained in the CRTC infographic. Perhaps a link to these regulations can be added to the handbook? We would suggest https://crtc.gc.ca/eng/phone/rce-vcr.</p>	<p>The note in this section includes a reference to the CRTC’s Voter Contact Registry web page, which is the same page to which your comment links. The handbooks do not include external links because of the likelihood that they will become outdated in archival documents.</p> <p>However, in the Political Participants section of the Elections Canada website, in the same place that a political entity would find their political financing handbook, there is also a link to the CRTC guidebook on this subject.</p>
<p>Comments received from the Commissioner of Canada Elections</p>	<p>Elections Canada response to the Commissioner of Canada Elections</p>
<p>We are in agreement with the content of the proposed manual.</p>	<p>Elections Canada notes your comment.</p>

The following parties did not submit comments to Elections Canada regarding OGI 2019-04:

- Alliance of the North
- Animal Protection Party of Canada
- Bloc Québécois
- Christian Heritage Party of Canada
- Communist Party of Canada
- Conservative Party of Canada
- Green Party of Canada
- Libertarian Party of Canada
- Marijuana Party
- Marxist-Leninist Party of Canada
- National Citizens Alliance
- New Democratic Party
- People's Party of Canada
- Progressive Canadian Party
- Rhinoceros Party