

Directive on the Triennial Review of Political Party Membership

Last updated: February 13, 2024

Overview

The *Canada Elections Act* (the Act) requires that every three years by June 30, eligible and registered political parties submit to the Chief Electoral Officer (CEO) the name and address of 250 electors along with signed declarations that they are members. This process is known as the triennial review exercise. If a party fails to meet this requirement, the CEO may require the party to show that it has the necessary membership or face deregistration.

While the Act requires a triennial review exercise, it does not outline the process by which Elections Canada confirms that submitted membership declarations are valid.

This directive explains how the CEO determines if a party has met its obligations, and what steps they will take when a party has failed to meet its obligations.

1. Effective date

This directive was approved by the Chief Electoral Officer (CEO) on February 13, 2024, and takes effect on March 22, 2024.

2. Application

This directive applies to Elections Canada's administration of the triennial review exercise, and the procedure followed to gather sufficient information to allow the CEO to determine if a party has met the requirement to submit membership declarations.

The directive outlines the steps that Elections Canada takes if the CEO determines that the party has failed to provide the required documents as part of the triennial review exercise.

This directive aligns with the *Policy on Political Party Registration*.

3. Objective

The objective of the directive is to allow eligible and registered political parties, and the public, to clearly understand the process by which the CEO, using their discretion, determines if registered and eligible political parties have met their obligations under the Act; including when determining if thresholds and requirements have been met.

4. Context

When applying to become an eligible political party¹ under the Act, each party must submit at

¹ An eligible political party becomes a registered political party after having run a candidate in at least one electoral district in a general or by-election, as long as its application was made at least 60 days before the writ was issued.

least 250 membership declarations. Elections Canada writes to each individual who has submitted a declaration and asks them to confirm that they are a member² of the party. When at least 250 members of a party have written back to Elections Canada to confirm that they are a member of the party, the CEO approves that party's application to become registered.

Minimum membership of 250

Registered parties are granted significant access to information and funding benefits, and Parliament has established minimum requirements to ensure that only legitimate entities with an ongoing level of public support are able to avail themselves of the advantages that come with registration. This requirement is validated through the triennial review exercise, a process that is simpler than the initial registration process and is in place to make sure that registered parties have at least 250 members. The CEO will deregister parties that fail to meet this requirement.

The 250-member requirement and the triennial review exercise reflect the important public interest in safeguarding the party registration process and the advantages provided solely to registered parties. Courts have recognized that maintaining public confidence in the integrity of the electoral process, including its public financing scheme, is a pressing and substantial objective in a free and democratic society.

Before starting the triennial review exercise, Elections Canada reminds parties of their obligations and of the deadlines. Throughout the triennial review exercise, Elections Canada sends them reminders and answers their questions.

Aside from the triennial review exercise, the Act allows the CEO to conduct a full review of a party's membership, at any time, if they are not satisfied that a party has met the requirement to have a minimum of 250 members.

CEO discretion

The Act does not explain how the CEO determines whether a party has met its obligation. The Act also does not explain how Elections Canada should determine the authenticity of the documents submitted.

As noted in the *Policy on Political Party Registration*, when applying the Act and exercising discretion given to them by the Act, the CEO seeks to adhere to the following principles:

- Accessibility
- Fairness
- Independence
- Reliability
- Security
- Transparency

² An elector who completes the membership declaration form in writing is considered a member of the political party, for the purposes of this triennial review.

5. Membership declarations submitted as part of the triennial review exercise

To treat all political parties fairly and to ensure that the Act is applied in a way that is transparent and reliable, declarations submitted by parties that are participating in the triennial review exercise are assessed by Elections Canada as follows:

5.1 Elections Canada checks that each declaration submitted by a party includes the correct party name and the party member's complete contact information, and that it is signed and dated within 12 months of submission.

- Each membership declaration must be physically signed in ink by the party member. Electronic signatures are not accepted.
- Once signed by the party member, membership declarations can be electronically submitted to Elections Canada.
- There is a 12-month deadline because most memberships are annual, and it gives the party sufficient time to collect signatures.

5.2 Declarations that are incomplete are set aside to be reviewed, and the reason for setting them aside is recorded. These declarations do not count toward the party's 250 declarations.

5.3 Declarations that are complete are counted toward the party's total 250 declarations.

5.4 If the party does not submit the required 250 declarations by the deadline, Elections Canada begins the process that may lead to the party being deregistered.³

6. Upon receipt of 250 properly filled membership declarations

Upon receiving 250 complete declarations, the CEO will deem the parties compliant with their triennial obligations, absent other extraordinary factors, if they meet at least one of the following criteria:

- The party has an elected member in the House of Commons at the time of the triennial review exercise
- The party has met the threshold for the requirement to file quarterly returns (meaning that they had at least 2% of the vote nationwide or 5% of the vote in the electoral districts in which candidates of the party ran)
- The party had at least 250 contributors or fundraised at least \$100,000 in the year preceding the triennial exercise

If a party does not meet at least one of the criteria listed, a confirmation process (described in section 6.1) is carried out to make sure that the party has met its obligations under the Act and to preserve the security of the political financing regime.

This process promotes the principle of fairness by recognizing that fair treatment in this context requires acknowledging the different circumstances of parties of various sizes. For many

³ For information about the deregistration process, see section 7.

parties, notably those that meet the criteria above, further confirmation is not necessary to make sure that they meet the requirements set out in the Act.

6.1 Confirmation process

The process of confirming parties was designed in a way that would limit the administrative burden on parties while maintaining the security of the political party registration system. This process is carried out as follows:

6.1.1 Elections Canada sends a letter and questionnaire to 50 randomly selected members of each party to confirm the information that those members provided in their membership declaration. Each randomly selected party member must return their completed questionnaire within 30 days.

6.1.2 Elections Canada compares the results of the questionnaires against the declarations.

Results of mail-out

Elections Canada recognizes that it is unlikely that all 50 randomly selected members of a party will mail back their questionnaire within the prescribed 30 days. When determining whether a party has the required membership under the Act, the CEO considers factors, such as:

- The number of positive responses in the questionnaires
- The number of negative responses in the questionnaires
- The number of registered electoral district associations affiliated with the party

Furthermore, the CEO may reassess if one of the three criteria listed in section 6 is now met by the party. For example, a party may have an elected member of the House of Commons in a just concluded election.

Obligations met by the party

If the CEO determines that a party has met its obligations, the triennial review exercise is concluded, and the party is notified.

Obligations not met by the party

If the CEO determines that a party has not met its obligations under the Act, Elections Canada will send the confirmation process letter and questionnaire to the remaining party members; or the CEO may start the process to deregister the party.

If the CEO determines that obligations of the party under the Act are still not met, after the review of the questionnaire responses provided by the remaining party members, the CEO will start the process to deregister the party. During the deregistration process, the party has the opportunity to show that it is in compliance with the Act to avoid being deregistered.

7. Deregistration as result of the triennial review exercise

The Act describes how to deregister parties that are not in compliance with their legislative obligations, including the requirement to provide the declarations of 250 members on a triennial

basis. The Act prescribes the following:

7.1 A letter of non-compliance is issued to a party that fails to submit 250 declarations, providing that the party has 30 days to discharge its obligation. Alternatively, the party can show the CEO that the failure to comply was not the result of negligence or lack of good faith.

7.2 If the CEO is satisfied that the failure was not the result of negligence or lack of good faith, they may provide an additional time period for compliance or, in rare circumstances, exempt the party from its obligation.

7.3 If, by the new deadline communicated to the party, the party still has not met its obligation, the party will be deregistered.

8. Registered and eligible parties exempt from the triennial review exercise

Parties that became registered or eligible to be registered within one year of the triennial deadline of June 30 are exempt from the triennial review exercise. It would be redundant for these parties to submit new declarations soon after they have just submitted 250 declarations as part of their application to become registered or eligible to be registered.

9. Roles and responsibilities

For all roles and responsibilities related to Elections Canada's regulatory policy instruments, please refer to *Regulatory Policy Development and Management*.

10. Monitoring, evaluation and review

Refer to the *Policy on Political Party Registration*.

11. Inquiries

Address any questions about this directive to: politiqueregulatoire-regulatorypolicy@elections.ca.