

Bill 254 Q&A

1) What does the EFA cover?

The EFA governs campaign spending. The parts of the EFA that concern us are those that regulate spending by “third parties,” including unions.

Third parties are not allowed to directly donate money to parties or candidates. But we are allowed to spend money on political advertising of our own.

If we spend money on political advertising within the 12 months prior to the election writ, we must do so within the rules of the EFA.

2) What is considered political advertising?

Political advertising could be ads in support of a specific candidate or party, or it could be ads attacking a specific candidate or party.

Political advertising could also include issue-based campaign ads if the issue is one that’s “closely” identified with a party or candidate.

For example, if a party is campaigning on a \$15 minimum wage, then running ads that also campaign for a \$15 minimum wage during the 12-month period before the election writ could be considered political advertising.

3) What are the rules for political advertising?

First of all, the EFA only covers political advertising that costs *money*. (Note that “money” also includes financial resources such as in-kind contributions of space, equipment, staff time, etc.)

If it’s free, then there’s no need for you to worry about EFA rules.

The following activities are examples of things you CAN freely do:

- Write editorials and do interviews for media coverage
- Circulate media stories and videos that support your political message
- Give speeches or speak on panels
- Send messages to union members
- Use free social media platforms to spread your message (although if you pay to boost your posts, that is a regulated expense)

However, if you are going to spend *money*, the following rules apply:

- All third parties that spend more than \$500 must register as a third party with Elections Ontario, must appoint a Chief Financial Officer to oversee the spending and must obtain authorization from their governing boards (following whatever rules you have for spending in your Bylaws)
- All third parties that spend more than \$5000 must appoint an auditor
- All registered third parties must report their political spending EACH TIME they spend or plan to spend \$1000 or more, AND each time the amount of their total spending goes up by \$1000 or more

- All registered third parties must submit a final spending report when they reach their spending limits or within 6 months of the end of the election if they don't reach the spending limits
- All ads must clearly identify the union as the sponsor of the ads
- Political spending may not exceed the limits in the EFA.

4) What are the spending limits?

The EFA divides the regulated period into two parts, and each part has its own spending limits.

The first part is the 12-month period prior to the issue of the writ of election (called the "non-election period"). The spending limit for third parties during the non-election period is \$637,200 in total, of which no more than \$25,488 can be spent in any one electoral riding.

The second part is the period between the issue of the election writ and the date of the election itself (called the "election period" and usually lasting around 6 weeks). The spending limit for third parties during the election period is \$106,200, of which no more than \$4,248 can be spent in any one electoral riding.

5) What about donations?

Unions can't donate directly to candidates or parties, but we can donate to other third parties that do political work.

Even if you don't do any political advertising of your own, if your Local donates money to a third party that *does* do political advertising or campaigning, the amount of the donation is regulated spending under the EFA, and it needs to be reported as such.

So if you donate to groups that do political work, make sure you register with Elections Ontario if this amount exceeds \$500, and if it is less than \$500, be sure to communicate with **CUPE Ontario Secretary—Treasurer Candace Rennick** *prior* to making the donation so that it can be properly tracked and reported. This is important to ensure that CUPE Ontario does not inadvertently exceed its limits.

6) What about members or staff on release time?

Unions are not allowed to release staff or members with pay to work directly on political campaigns. Any work on a candidate or a party campaign must be done on volunteer time only.

However, Unions may release staff or members with pay to do member mobilization work, including mobilization of support for specific candidates, parties or political issues. These salary expenses are not regulated by the EFA *as long as* the mobilization and communications are directed *solely* at members of our own union.

If any staff or members on release time do issue-based political advertising work that is directed at the general public, then the salary costs are considered political spending and must be tracked and reported as such under the EFA.

7) Who needs to register as a third party for CUPE?

CUPE Ontario will register as a third party broadly covering CUPE's political spending. In addition to its own spending, CUPE Ontario's registration will cover any campaign spending by provincial committees organized by the CUPE Ontario Constitution.

If your Local plans to spend less than \$500 on political advertising between now and June 2, 2022, you don't need to register. However, you should contact CUPE Ontario *prior to* spending the money so that CUPE Ontario can report the spending and ensure it counts toward CUPE Ontario's spending limits.

If you intend to spend more than \$500, you need to register your Local with Elections Ontario and meet all the reporting requirements yourself.

8) What are the collusion rules?

The EFA prohibits collusion by third parties to get around the spending limits. This means we shouldn't try to get "creative" in order to spend more than we are allowed. The best approach is to be judicious with our spending, to defer to tracking and reporting if we are unsure, and to stay well within the spending limits.

Here are some examples of things you CAN freely do with other third parties:

- Hold meetings and calls to discuss our political priorities
- Organize joint press releases and public panels on shared political issues
- Organize joint rallies and other actions on shared political issues (although if you advertise for the rallies to the general public, you would need to report those advertising costs)
- Coordinate endorsements of candidates or parties (although if you pay to advertise your endorsements to the general public, you shouldn't share those ads or their costs with another group)

Here are some examples of things that would constitute illegal collusion under the EFA:

- Artificially dividing your Local or bargaining council into multiple registered groups in order to spend more than your limit
- Paying for political polling, research, or advertising and then sharing it "for free" with another third party so that they don't have to spend their own money on it
- Strategizing with other third parties on clever ways to circumvent the spending rules
- Organizing a shared "deal" with a vendor who might give you and other third parties cheaper rates for buying together if the vendor supplies political ads or other campaign-related materials

9) What about cost shares?

If your Local has an approved cost-share campaign with CUPE National that includes political advertising or campaign work, then the spending on these portions of the cost-share is regulated by the EFA and needs to be tracked and reported as such.

CUPE National does not intend to register as a third party in the Ontario election, and cost-share money is always sent directly to the relevant Locals for spending. Therefore, 100% of the political spending you do with cost-share money needs to be reported as your own spending for the purposes of complying with the EFA.