

In the Matter of the General Dispute Resolution Process (“the GDRP”) pursuant to a Notice of Dispute by the Calgary-Varsity UCP Constituency Association dated December 16, 2024

BETWEEN:

CALGARY-VARSITY UCP CONSTITUENCY ASSOCIATION
(“**Calgary Varsity CA**”)

Claimant

- and -

UNITED CONSERVATIVE PARTY OF ALBERTA
(“**UCP**”)

Respondent

Before:

Thomas P. O’Leary KC	Panel Chair
Richard Forbes	Panel Member
Gary Belecki KC	Panel Member

(“**Panel**”)

AWARD
DATED JULY 17, 2025

BACKGROUND

1. The UCP is a political party and incorporated pursuant to the *Societies Act*, RSA 2000 c. S-14. It operates pursuant to Bylaws that can be altered by membership at general meetings.
2. UCP Bylaw Article 10.1 requires the UCP to adhere to its Governance Manual, which may be amended by majority vote at general meetings. That Governance Manual establishes, among other things, a set of Rules Governing Constituency Associations (the “**Rules**”) for each Alberta Electoral Division. These Rules govern the Calgary-Varsity CA. Within the Rules is a section (Section 7) of rules for Constituency Associations Boards of Directors. Articles 7.1 and Articles 7.2 under that Section read as follows:

7.1 Subject to Article 7.2, any member may stand for election as a Director at a General Meeting where the business to be transacted includes the election of Directors. Each Member who stands for election as a Director shall be given an opportunity to speak at the General Meeting.

7.2 The total number of Directors shall not exceed thirty (30). One (1) in every five (5) Directors or portion thereof, to a maximum of six (6), may be Members not resident in the Constituency.

3. Articles 7.1 and 7.2 were in place on November 2, 2024, when the UCP held its 2024 Annual General Meeting (the “**2024 AGM**”) in Red Deer, Alberta. At the 2024 AGM, the UCP membership resolved to amend the Governance Manual – Rules Governing Constituency Associations to add provisions restricting membership on Constituency Association Boards (“**CA Boards**” or “**CA Board**”). These new restrictions exclude immediate family members of a sitting MLA, Candidate, or Nomination Contestant in that electoral division (Articles 7.8) and restrict registered lobbyists (Article 7.9) from membership on CA Boards.
4. Articles 7.8 and 7.9 read as follows:
 - 7.8 The immediate family (spouse, common-law partner, sibling, child, or parent) of a sitting MLA, Candidate or Nomination Contestant is not eligible to be a Director of the CA Board which that MLA represents or in which the Candidate or Nomination Contestant is running.
 - 7.9 Any lobbyist who is included in the Alberta Lobbyist Registry administered by the Office of the Ethics Commissioner shall not be permitted to hold any position on a CA Board in Alberta.
5. It is not disputed that Articles 7.9 was validly proposed and adopted at the 2024 AGM.
6. On November 26, 2024, Mr. Fiselier was advised by the UCP that he would need to step down as President and Director of the Calgary-Varsity CA due to the new prohibition established in Article 7.9.
7. Mark Fiselier was the elected President and Director of the Calgary-Varsity CA at the time of the 2024 AGM. He was also registered as a lobbyist in the Alberta Lobbyist Registry administered by the Office of the Ethics Commissioner. At the time of his election as President and Director of the Calgary-Varsity CA, the Governance Manual – Rules Governing Constituency Associations did not prohibit registered lobbyists from holding positions in CA Boards.
8. On November 26, 2024, Mr. Fiselier was advised by the UCP that he would need to step down as President and Director of the Calgary-Varsity CA due to the new prohibition established in Article 7.9.

9. Mr. Fiselier and the Calgary-Varsity CA objected, and issued a Notice of Dispute on December 16, 2024, pursuant to the General Dispute Resolution Process (the “**DR Process**”) set out in the UCP Governance Manual. That Notice of Dispute seeks that Article 7.9 be struck or ruled not binding due to an alleged conflict with Articles 7.1 or 7.2, or in the alternative, that Articles 7.9 not be applied to individuals registered as lobbyists and serving terms on CA Boards prior to the 2024 AGM.
10. Both parties have expressly acknowledged the applicability of the Dispute Resolution Process and the jurisdiction of this Dispute Resolution Panel to determine the issues raised by the Calgary-Varsity CA in its Notice of Dispute.

ISSUES

- Does Article 7.9 conflict with Article 7.1 and/or Article 7.2?
- Can and should this Panel exempt the Calgary-Varsity CA from application of Article 7.9 until its Board members complete their elected terms, or for some other period?

POSITIONS OF THE PARTIES

A. Calgary-Varsity CA

11. The Calgary-Varsity CA argues that Article 7.9’s prohibition against registered lobbyists holding CA Board positions is in fundamental conflict with Article 7.1 and 7.2, which provide that “any Member” may stand for election as a Director at a CA General Meeting, address Board size, and a residency requirement. We note too that while Article 7.1 is expressly “subject to” Article 7.2, it is not expressly to Articles 7.8 or 7.9.
12. The Calgary-Varsity CA seems to acknowledge that Article 7.9 would be rendered meaningless if it does not qualify the eligibility of UCP members to hold CA Board positions.
13. The Calgary-Varsity CA urges Article 7.9 should have no effect as it displaces the foundational role of the CA’s in UCP governance which underlies the broader UCP governance structure set out in the Bylaws and Governance Manual, and which is central to how UCP members exercise their rights. It is argued that Article 7.9 effectively alters CA Board eligibility criteria retroactively, and that no transitional process is established to deal with CA Boards validly elected before the 2024 AGM for terms extending beyond the 2024 AGM.

14. Due to the inconsistency with Articles 7.1 and 7.2, and with UCP foundational principles, and the lack of expressed primacy over Articles 7.1 and 7.2. Calgary-Varsity CA asserts that Article 7.9 should be struck or ruled not binding.
15. Alternatively, if Article 7.9 is effective, the Calgary-Varsity CA seeks “equitable relief” from this Panel to “grandfather” its elected Board members who are lobbyists, exempting them from application of Article 7.9 until expiry of their elected terms. It does not comment on the Panel’s jurisdiction to impose such a remedy.

B. UCP

16. The UCP concedes that Article 7.9 is in conflict with Article 7.1 but asserts that this conflict is easily and properly reconcilable by reference to the evidenced intent of the UCP in adopting Article 7.9, and by the application of appropriate principles of interpretation for written instruments.
17. The UCP submits that Article 7.9 is clearly intended to qualify Articles 7.1 and 7.2, while Article 7.1 could have been amended such that it is expressly “subject to” Article 7.9, this is not determinative of intent. The UCP points out that Article 7.8 also qualifies Articles 7.1 and 7.2 by limiting CA Board membership (in that case excluding immediate family members of a sitting MLA, Candidate or Nomination Contestant for that constituency) and, like Article 7.9, that Article 7.1 is not expressly “subject to” Article 7.8.
18. Specific reliance is placed by the UCP on the well-established interpretative principle that specific provisions qualify (prevail over) general provisions in written instruments. Reliance is also placed on the 2024 AGM materials for the then proposed Article 7.9, which stated that a registered lobbyist holding a position on a CA Board “is clearly in a conflict of interest, as lobbyists who **currently** sit on [CA] Boards have the ability to influence their representative MLA for personal gain”.¹ This is said to demonstrate the intention of the UCP members to have Article 7.9 operate immediately as a qualification of the general eligibility of members to serve on CA Boards provided for in Articles 7.1 and 7.2.

¹ As quoted from UCP submissions.

19. It seems assumed by the UCP that Article 7.9 will be rendered meaningless if it does not have the effect of qualifying Articles 7.1 and 7.2 as to eligibility of party members to hold CA Board positions.
20. On the issue of “grandfathering”, the UCP does not comment on jurisdiction but urges that to do so would be wrong as it would ignore the clear intention of Article 7.9 as adopted by UCP members at the 2024 AGM.

ANALYSIS

21. There are no facts in dispute. Both sides also apparently agree that Article 7.9 will have no force or effect unless it acts to restrict CA Board membership of individuals registered as lobbyists such as Mr. Fiselier.
22. The proper approach is noted by the Calgary-Varsity CA:

The language in written instruments, whether contracts, legislative enactments or otherwise, is to be construed with reference to the context and purpose of the instrument and the specific words used.
23. The purpose of interpreting written instruments is to determine in an objective way the intention expressed in them. This approach to interpreting written instruments reflects Canadian law. It has a number of more specific corollaries sometimes referred to as principles of interpretation or “canons of construction”. None of these are rigid rules that must be followed. Instead, they are principles that may be applied to discern intention. Many of these are to provide ways to resolve apparent conflicts and inconsistencies within written instruments.
24. One of these principles is that those proffering written instruments do not intend absurdity or redundancies. Every part is assumed to have meaning. A construction that avoids making nonsense of a section must be avoided if the language of the instrument will permit it.
25. Another of the interpretative principles used to determine and give effect to written instruments, as pointed out by the UCP, is that a more specific provision is presumed to qualify, or prevail over a related general provision. The relevance of this principle here is obvious, as Articles 7.1 and 7.2 are general eligibility rules, and Article 7.9 is more specific in nature.

26. Another well-established interpretative principle is that, where conflicting provisions exist, a later enactment is to be assumed to qualify or alter an earlier, conflicting enactment. This principle has particular relevance when an amendment to an instrument conflict with a pre-existing clause. As Article 7.1 is not expressly “subject to” Article 7.9 the apparent conflict between the two provisions is clear.
27. Applying the appropriate purposive approach with the corollary principles in mind to resolve this conflict, yields a clear result. As a starting point, the language of Article 7.9 discloses its intention without ambiguity, stating that a registered lobbyist “shall not be permitted to hold any position” on a CA Board [*emphasis added*]. The nature of the prohibition is clearly communicated. The prohibition against holding a CA Board position (not against standing for election as a Director) also clearly communicates that the prohibition is to have immediate effect.
28. The context of Article 7.9 supports this position. The 2024 UCP AGM materials describe Article 7.9’s purpose in present terms. It exists in the same short section of the Governance Manual as Articles 7.1 and 7.2, suggesting they are all to be read together.
29. The fact that the Calgary-Varsity CA reasoning would render Article 7.8 void and of no effect is also noted. This supports the view that both provisions were intended to qualify Articles 7.1 and 7.2 despite a lack of express “subject to” language in Article 7.1 in relation to them.
30. Applicable interpretative principles provide additional compelling support to the UCP position. Articles 7.1 and 7.2 are general in nature, setting out eligibility to stand for election for a CA Board and Board composition requirements/restrictions. Article 7.9 is a very specific restriction on CA Board membership, as is Article 7.8, and should be presumed to prevail over the preceding general articles (7.1 and 7.2).
31. Similarly, Article 7.9 was enacted after Articles 7.1 and 7.2, and appears after Articles 7.1 and 7.2. These circumstances strongly support the presumption that Article 7.9 was intended to take precedence over Articles 7.1 and 7.2.
32. The interpretative principles noted above are appropriate to the present circumstances. They provide compelling support for the conclusion that Article 7.9’s specific restriction on CA

Board membership, and in these circumstances, could only have been intended to be an exception to the pre-existing general eligibility provisions in Articles 7.1 and 7.2.

33. The object of construing written instruments is to objectively determine the intention expressed. The wording of Article 7.9 itself, its context, including the Rules as a whole and the 2024 AGM materials, and well-established, appropriate principles of interpretation leave no reasonable doubt about intention. All these factors point strongly to construing Article 7.9 as an exception to Articles 7.1 and 7.2, with immediate effect. We therefore conclude that Article 7.9 has immediate effect upon enactments and applies to prohibit Mr. Fiselier from membership on the Calgary-Varsity CA Board.
34. The alternative request of the Calgary-Varsity CA to have sitting Board members exempted from Article 7.9 has no merit. Having held that Article 7.9 has immediate effect as an exception to Articles 7.1 and 7.2, it is not clear that this Panel has any jurisdiction to simply override Article 7.9 on the basis of perceived fairness or justice. No source for such jurisdiction, other a vague reference to “equity” has been provided.
35. We are not aware of any equitable principle that would apply here, nor do we consider that we have jurisdiction to simply override the clearly expressed will of the UCP membership that Article 7.9 is to have immediate effect. Even if that jurisdiction existed, we would not provide any relief here. We deny this requested relief.

CONCLUSION

36. For the reasons above, the claims of the Calgary-Varsity CA as set out in the Notice of Dispute and its submissions to this Panel are dismissed in their entirety.

DATED AT THE CITY OF CALGARY IN THE PROVINCE OF ALBERTA THIS 17th DAY OF JULY, 2025.

Per:  _____ Thomas P. O'Leary KC Panel Chair	Per: <u>"Richard Forbes"</u> Richard Forbes Panel Member
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Per: "Gary Belecki"
 Gary Belecki KC

Panel Member