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October 1, 2018

Mathieu Vick
Federal NDP President
300 – 279 Laurier Avenue West
Ottawa, ON
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Dear Mr. Vick:

I write to appeal the purported decision not to readmit me to the federal New Democratic Party (NDP) caucus and the purported pre-emptive denial of my right to be a candidate for any NDP nomination requiring the party leader's approval. These actions were communicated to me on September 4, 2018.

Basis for appeal under NDP anti-harassment policy

NDP policy adopted by the NDP convention, which is the supreme governing body of the party, sets out how complaints of harassment are to be dealt with in the NDP, and sets out the rights of both complainants and persons complained against. The policy is binding on all members, including the federal leader.

The party has specifically described how harassment complaints are to be dealt with. No unilateral disciplinary powers are granted to the federal leader of the party and the requirement of objectivity and assignment of responsibility to specific party officers would preclude the federal leader having the power to discipline members of the party – including Members of Parliament (MPs) – accused of harassment.

This appeal is made pursuant to NDP policy prescribing how complaints of harassment should be dealt with in the NDP.

The 2018 federal NDP convention determined how complaints of harassment would be dealt with. The resulting policy is one of a small number of policy statements fully and specifically included in the party's official website as a central guiding document for the operation of the party and rights of its members.

Authority to adjudicate harassment complaints concerning NDP MPs

The NDP Policy on Discrimination, Harassment and Sexual Violence adopted at our 2018 convention specifically “applies to complaints of... harassment ... that involve ... MPs (at NDP conventions, socials or other events).” It provides in its penalties section that a decision to suspend or expel an MP from caucus is a decision to be taken by certain prescribed officers of the NDP, not including the federal leader.

Application of NDP policy to complaints against the appellant

All of the complaints reported by the investigator appointed by the federal leader appear to relate to NDP functions within the stated scope of the NDP policy and were complaints to which the party policy applies.

Grounds for appeal

The NDP policy sets out specific procedures to be followed in cases of harassment complaints. The policy was breached in the handling of complaints of harassment against the appellant in the following ways:

- The policy requires that it be carried out “without bias.” The federal leader expressed a bias in favour of complainants, whom he said were to be believed, even prior to any investigation or findings. Furthermore, the federal leader himself was directly involved with some of the behaviour he purported to discipline the appellant for, including communicating with the public through the media in a manner the federal leader found objectionable.
- A complaint of harassment is to be dealt with by certain prescribed officers of the NDP and/or the Whip. These officers are to advise the complainant and person complained against of the process and legal parameters, are to follow the process, and are to attempt to resolve the matter. This did not occur because the federal leader unilaterally purported to exercise disciplinary powers that are simply not assigned to him anywhere and in a manner contrary to specific party policy.
- None of the communication which is to come from the officers to both the complainant and the accused was carried out.
- When and if an investigator is engaged, the person complained against is to be provided with “full particulars of the allegations and a copy of the written complaint.” This was not done and the appellant was never provided copies of the complaints with particulars such as place, time, or otherwise.
- The policy contemplates that there will actually be a complaint as the basis for an investigation. At the time the federal leader initially suspended the appellant from caucus duties on February 1, 2018, no complaint had been filed. It was only after appointing the investigator on February 6, 2018, that the leader’s office solicited complaints and some complaints were submitted.

- The policy applies to all members of the NDP, including the federal leader. The policy requires a "fair investigation" be conducted. The policy requires "a fair hearing." There was no hearing. The policy requires that the person complained against "be kept informed throughout the process." This did not occur. It provides for "a fair appeal." The federal leader states that his decision is "final" and that there is apparently no appeal, in violation of the process determined by the party.

- The policy requires "confidentiality." On the basis of a general hearsay allegation in an email sent to NDP MPs that the appellant was "harassing," the federal leader suspended the appellant from caucus duties and communicated his purported disciplinary powers to the public through the national media, prior to any complaints being received, prior to any investigation being conducted, and prior to any findings of harassment being arrived at through the due process required by party policy.

- Under the policy, the party is "obligated" to apply the policy using "due diligence," "reasonable measures," "appropriate attention and care," "following the process without bias," and "using reasonable and measured processes." It is patently clear that none of this occurred.

- The policy requires the officers of the party to sign the policy stating that they have read and understood it, and clearly sets out that the officers are to deal with complaints of harassment in the manner determined and set out.

- Under the policy, disciplinary actions are to be decided by the operations director of the party in conjunction with the Whip where appropriate, specifically including any disciplinary actions to suspend MPs from caucus, to remove MPs from caucus, or to withdraw support for candidacy. Proper officers of the party did not conduct the process, and did not determine what disciplinary actions if any would be appropriate. The federal leader purported to handle the process, demonstrated bias, expressed his own complaints about the appellant's behaviour, and meted out penalties, none of which he had the authority to do, and which ran counter to what is required by the policy, including its commitment to a fair and unbiased process.

Under the policy, the person complained against is entitled to a fair appeal. Given the ways in which the policy was not applied and was specifically violated as enumerated above, I hereby assert my right to appeal and ask that a mutually agreeable outside expert evaluate my purported expulsion from caucus and purported ineligibility to seek a federal NDP nomination.

Yours truly,



Erin Weir
MP for Regina-Lewvan
Lifetime NDP Member