



Association of Fundraising Professionals (AFP)

Comments on the Canada Revenue Agency's

Guidelines on Political Activities of Charities

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Introduction

AFP appreciates the opportunity to provide our thoughts and recommendations regarding the Canada Revenue Agency's online consultation on political activities by charities.

For over two decades, the Association of Fundraising Professionals (AFP) has been honoured to engage at all levels of government—federal, provincial/territorial and municipal—and encourage its members and charities to proactively reach out to policy makers. Despite the excellent work of the Voluntary Sector Initiative years ago and education materials put together by the CRA, AFP's experience has been that most of our members—individual fundraisers and charities—are very uncertain and wary of speaking with the elected officials about policy issues affecting their missions.

Given the considerable size and impact of the sector—representing more than 160,000 organizations, employing two million Canadians and contributing 10.5 percent of the labour force and 8.1 percent of Gross Domestic Product, according to the National Survey of Nonprofit and Voluntary Organizations—this situation needs to change.

Charities are tackling a variety of social problems, issues and challenges every day and can provide a unique and insightful perspective on many proposals the Canadian government may be considering. We should not just be allowing, but encouraging, the role of charities in providing their experience and expertise on issues that coincide with their mission, programs and operations.

We approach our comments from this perspective, with appreciation to the CRA for their continued outreach and work in this area, in keeping with your education strategy. Our comments on these issues tend to be more strategic, though we do ask for clarification from the CRA on a couple of points.

1. Carrying Out Political Activities

Are charities generally aware of what the rules are on political activities?

What issues or challenges do charities encounter with the existing policies on charities' political activities?

Do these policies help or hinder charities in advocating for their causes or for the people they serve?

AFP's main concern with the overall rules is the very concept of "political activities," which is not well understood by charities, and media stories have created further misconceptions. Most people know that charities cannot support specific politicians or parties. However, most are not aware that the "10 percent" rule – referring to the general rule that charities spend no more than 10 percent of their total resources on political activities—only applies to mobilizing the public to retain, oppose or change a law. The vast majority of what charities do in terms of interaction with politicians, as long as it is

related to their mandate, actually falls under “charitable activities” and not “political activities.”

Because many are hesitant to even talk to politicians and government committees, their expertise and perspective—taken from experiences on the “front lines” of addressing social issues—are often not being taken into account in policy decisions that affect them. The cost of non-involvement is that the best policy options may not be considered. Consequently, we urge the CRA—working in partnership with the charitable sector—to demystify what charities are allowed to do in terms of communicating with elected officials to advance their missions and causes through public policy.

We believe a critical challenge in encouraging greater charity participation in public policy is the nomenclature used by the CRA in categorizing various activities under Policy Statement CPS-022. “Prohibited activities” are obvious and straight-forward—actions that charities cannot undertake. The same is true of “charitable activities.”

But the term “political activities” is problematic. “Political” for many people refers to politics and political campaigns—exactly the things in which charities are prohibited from engaging. As a result, charities tend to shy away from even activities that are considered “charitable activities” and allowed by the CRA. This situation is not just damaging to charities but the entire policy process, as we note again that charities have unique expertise and perspective that can be invaluable in developing effective laws and regulations.

We would also add that in our discussions with charities and member organizations, we found that some organizations and individuals were wary or concerned about contacting CRA directly about political activities and what is deemed charitable, permissible and prohibited. They were fearful that they might be identified by the government as a possible “bad apple” or being placed on some “blacklist” of organizations that would be scrutinized more closely because it was considering getting more engaged in public policy.

We strongly urge the CRA to make clear in its guidance, examples and other searchable resources that simply asking about these guidelines and policies, and engaging in political activities and the public policy process, does not in any way subject the organization to greater scrutiny and oversight. We wholeheartedly agree that the CRA must perform its oversight function and respond properly if a charity engages in prohibited activity or spends too many resources on political activity. But charities must be confident that simply engaging in charitable or permitted activities will not run them afoul of the CRA.

Recommendation: Language should be reframed to encourage, not restrict, engagement with elected officials. At a minimum, the current category of “political activities” should be changed to a term that is less confusing, does not have a negative connotation for charities and encourages charities to engage with elected officials and other policy makers. AFP would recommend “public advocacy” as a possible name, but

we would also encourage CRA to reach out to the sector to see what language would encourage more engagement.

Recommendation: The CRA should explicitly state that seeking information about this guidance and rules for getting engaged in the public policy process will not subject the organization to additional scrutiny beyond what the rules call for and the information charities are required to provide to the government.

2. The CRA's policy guidance

- **Is the CRA's policy guidance on political activities clear, useful, and complete? For example, how could the CRA improve its policy guidance on these topics:**
 - the description of a **political activity**
 - the description of a **partisan political activity**
 - charities' **accountability** for their use of resources
- **Which formats are the most useful and effective for offering policy guidance on the rules for political activities?**

To its credit, the CRA has a number of resources on its website related to Policy Statement CPS-022. However, there seems to be little structure or order as to how the resources are listed, nor is there any sense of precedence or importance (e.g., does the language in this document supersede another document, is this document simply guidance, etc.).

AFP would recommend a wide variety of documents and formats for offering policy guidance, as different individuals will gather information and learn most effectively in different styles. We encourage the CRA to make a point of reaching out to different charities to learn what the most popular formats are, though we do agree mixing in videos with written materials in a searchable content form is probably most helpful.

An example from the past that was well received: The Charity Law Information Program included a free webinar series and other templated resources. It was funded by CRA, managed by Capacity Builders and designed to help charities become more aware of their legal obligations under the Income Tax Act. The program ended in 2012. We urge the CRA to use this sort of program as a model for its future work in educating charities about public policy engagement.

Specifically, AFP would encourage the CRA to develop a few materials that are concise and reader-friendly, especially given the long nature of the Policy Statement and other materials. We foresee a checklist document, where charities could quickly read and understand what is required for different categories of activities, and a flow-chart or similar device that a charity could use to determine into which category a particular activity would be grouped.

In addition, given how critical the CRA indicates engagement by charities is in this area, and the growing importance that the sector has in Canadian society, AFP also believes that there needs to be a change in tone regarding the website and related materials. The website and other materials should set the foundation that charity engagement in public policy issues is not only welcome, but encouraged. This needs to take place not only in videos, but in all documents issued by the CRA on this topic.

AFP also has concerns with some of the examples highlighted under the current descriptions of “charitable” and political” activities. In the policy and examples, there are numerous references to “research” and “presentations.” These examples set up the expectation that charities must have conducted research or have been invited to give a formal presentation in order to engage with elected officials, when in actuality, these will be relatively rare occurrences for most charities.

The rule and guidance for admissible and encouraged activities by charities need to show examples of more commonplace activities, such as emailing both government officials and members of the public, simply having meetings to introduce themselves to newly elected office holders, and similar actions. In addition, “research” might simply involve a fact sheet of data and trends the charity has collected over the years based on its programs and experience, as opposed to a particular survey or study.

Overall, we urge the CRA, through its policies and sample activities, to demonstrate that engaging with public officials does not need to be a monumental activity that requires a great, expansive effort. Charities should be encouraged to keep in touch with officials on a regular basis so they know these organizations exist and have knowledge and expertise that can be useful when creating legislation and other policies.

We also recommend the CRA clarify how charities might articulate support of policies that intersect with the position of political parties. For example, AFP and others often work to get as much support from as many ideologically diverse officials as possible. Or, in other cases, a bill or changes to a law may be supported by one or more different political parties. How can a charity articulate this broad-based support in its communications?

To be clear, we do not in any way seek to change the rules on “prohibited” activities and believe that charities should not engage in supporting particular candidates, officials or parties. But demonstrating that a particular proposal has support from a wide variety of sources should be allowable, in AFP’s view.

Recommendation: AFP recommends the development of a more coordinated, structured, organized website that contains a variety of searchable materials in multiple formats, developed in consultation with charities. Materials should be in plain language and accessible.

Recommendation: AFP strongly encourages the CRA to make the tone of all materials welcoming and encouraging of activities by charities regarding the Policy Statement. It is not enough to simply state such activities are legal, nor we do think the government need to be overly effusive, but there needs to be middle ground that urges charities to get involved.

Recommendation: Currently categorized as “permitted political activity,” AFP recommends revised CPS -022 guidance and examples that focus on a larger variety of activities, beyond just “research” and “presentations,” including mobilization and communication efforts aimed at changing, modifying or enforcing a law.

Recommendation: AFP recommends that the CRA both a) continue its prohibition on activities related to supporting candidates and campaigns, and b) outline and encourage what a charity can do related to communicating the support of political parties of particular legislation (designed to show wide support of an idea or bill).

3. Future policy development

Should changes be made to the rules governing political activities and, if so, what should those changes be?

While we do not have any particular changes at this time other than those mentioned already, we commend the government for initiating this consultative process that is badly needed that will lead to enhanced clarity for charities in this area and hopefully increase charity engagement in the public policy process. We view this consultation as the start of a longer conversation about the role of charities in the public policy process.

Conclusion

An engaged charitable sector in the public policy process makes for a stronger and more effective public policy process. Government will more likely to hear from a strong diversity of voices on particular issues, which will only help create even more effective and impactful legislation.

As we stated briefly in the previous section, AFP sees this consultation as the beginning of a much needed, in-depth conversation about the charity advocacy. We look forward to seeing the CRA’s response and engaging in future conversations for the betterment of our charitable sector and the entire country.

AFP appreciates this opportunity to submit recommendations to the CRA. Should the CRA have questions about these proposals, please contact AFP at (416) 941-9212 or jlee@afpnet.org.