

# **Ethical Code Interpretation Guide**

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This interpretation guide has been created to assist charities in complying with the standards laid out in the *Ethical Fundraising & Financial Accountability Code* (Ethical Code).

## **A Donor policies and public representations**

### **Standard A1**

The Charity shall maintain its charitable status.

#### **Interpretation Guidelines**

1. If a charity asks for its charitable status to be revoked, it should notify Imagine Canada.
2. If a charity becomes aware that it is at risk of having its charitable status revoked by CRA, it should notify Imagine Canada.

### **Standard A8**

The charity shall honour donors' requests to remain anonymous in respect to:

- being publicly identified as a supporter of the organization; and/or
- having the amount of their contribution publicly disclosed.

#### **Interpretation Guideline**

In some circumstances, when the source or size of a donation may be perceived as affecting the independence of the charity, the organization may negotiate the terms of public disclosure.

### **Standard A12**

The charity shall have appropriate fundraising policies in place, including but not limited to gift acceptance, treatment of restricted or designated gifts, naming, and endowment policies. The relevance and appropriateness of the charity's fundraising policies shall be reviewed regularly by the governing board.

#### **Interpretation Guideline**

All restricted or designated donations shall be used for the purposes for which they were given unless the charity has obtained legal authorization to use them for other purposes. Alternative uses will be discussed where possible with the donor or the donor's legal designate. If the donor is deceased or legally incompetent and the charity is unable to contact a legal designate, the donation will be used in a manner that is as consistent as possible with the donor's original intent. If necessary, the charity will apply to the courts or the appropriate regulatory body to obtain legal authorization to use the donation for other purposes.

### **Standard A13**

Recognition mechanisms created due to a gift shall not be arbitrarily changed or withdrawn. Unless otherwise negotiated at the time of the gift or changed through a joint agreement between the charity and the donor or the donor's family or legal representative, the original form of the recognition mechanism will be maintained. If the mechanism cannot be physically retained, it will be changed to another consistent with the original agreement. If continuation of the recognition creates a reputational risk for the charity, it may be terminated or altered.

### **Interpretation Guideline**

The charity's Donor Recognition/Gift Acceptance Policy may be referred to in a gift agreement and may define recognition time limits and/or establish procedures if maintaining the original form of recognition becomes impractical or undesirable.

## **B Fundraising Practices**

### **Standard B8**

The charity shall not, directly or indirectly, pay finder's fees, commissions or percentage compensation based on contributions.

### **Rationale**

The Ethical Code prohibits finder's fees, commissions, and percentage-based compensation for several reasons, including:

- Charitable organizations operate for the public good and receive special rights and tax exemptions. Percentage-based compensation may provide excessive private benefit to individual fundraisers or for-profit fundraising firms and may damage the underpinnings of the contract that charitable organizations have with society.
- Percentage-based compensation may undermine donor confidence in charities by diverting or appearing to divert donated funds into private pockets. Donors and potential donors may reconsider their decision to give if they believe that their donation will benefit the fundraiser rather than the charity.
- Successful fundraising programs are built on the development of long-term relationships with donors. Finder's fees, commissions, and percentage-based compensation for fundraisers provide an incentive to maximize immediate revenue and may undermine the long-term interests of the charitable organization.
- Linking remuneration directly to fundraising success can lead to undue pressure on donors.
- Pre-determined payments for fundraisers recognize the value of the work involved in fundraising independently of the fundraising outcome, which cannot be guaranteed.

## Interpretation Guidelines

1. This standard extends to all fundraising done by the charity including fundraising done on its behalf or in its name.
2. This standard does not apply to:
  - a. commercial fees, such as *commissions* or percentage payments or similar administrative payments for credit card transactions;
  - b. administrative fees charged by registered charities that collect money on behalf of other charities (e.g., Community Foundations and United Ways);
  - c. cause-related marketing where a retailer or other service provider agrees to give a percentage of sales to a charity without any intermediary;
  - d. service providers that provide a platform for fundraising but do not solicit contributions on behalf of the charity, or
  - e. lotteries, including but not limited to, bingos, raffles, break open tickets and social gaming events that are otherwise regulated. It is expected that lotteries and other gaming events will be licensed by the appropriate authority.
3. Compensation of staff, consultants, and contractors should take into account the experience, expertise and the time requirements of the position as well as performance.
4. Charitable organizations may offer *performance-based compensation* to staff (e.g., salary increases, *bonuses*) under the following conditions:
  - a. there is a *performance-based compensation* policy in place that also applies to staff engaged in non-fundraising activities;
  - b. the governing board approves this policy;
  - c. performance goals are established in advance; and,
  - d. the criteria for determining eligibility for, or the amount of, *performance-based compensation*, do not include consideration of a percentage of income received by the organization as a result of the individual's efforts.
5. Charities that work with fundraising consultants or contractors may include performance-management mechanisms in their contracts. These mechanisms should be designed to minimize the cost of fundraising to the charity and avoid excessive private benefit to the consultant/contractor.
6. Should a charity have a contractual arrangement in place to raise funds, and a violation of the Code occurs through a breach of that contract, the charity must correct the situation as soon as reasonably possible.

## Definitions

*Bonus:* a sum of money given to an employee in addition to his/her usual compensation. Bonuses are usually given for meeting or exceeding established performance goals.

*Commission:* a payment based on the dollar value of a transaction. In the fundraising context, it refers to remuneration based on a percentage of funds raised.

*Finder's Fee:* a fee paid to a third party for bringing together two or more people or companies in a business transaction, as in the borrowing or lending of money. In the fundraising context, a finder's fee refers to the payment of a fee to a third party that is contingent upon obtaining a donation.

*Percentage-Based Compensation:* compensation based on a percentage of funds raised.

*Performance-Based Compensation:* compensation paid to an employee, consultant, or contractor that is linked to performance (e.g., meeting or exceeding established performance goals) but which does not relate in a significant way to funds raised.