

---

## **NEW CRA GUIDANCE ON PURPOSES AND ACTIVITIES BENEFITING YOUTH**

---

*By Terrance S. Carter and Jacqueline M. Demczur\**

### **A. INTRODUCTION**

On June 24, 2013, Canada Revenue Agency Charities Directorate (“CRA”) released a new guidance dealing with organizations that benefit youth. The guidance, referenced as CG-020, is entitled *Charitable Purposes and Activities that Benefit Youth*<sup>1</sup> (“Guidance”), and replaces the earlier CPS-015 *Registration of Organizations Directed at Youth*<sup>2</sup> (“Former Policy”). The new Guidance describes how CRA interprets the common law and *Income Tax Act* (“ITA”) in determining whether an organization that benefits youth is eligible to become a registered charity under the ITA or presumably can continue as a charity if subject to an audit by CRA. While the Guidance and the Former Policy are similar in many respects, there are several differences between the two which are explained in this *Charity Law Bulletin*.

### **B. DEFINITION OF YOUTH**

The Guidance defines “youth” in paragraph 4 as “young people, without restriction to a specific age range, which will now depend on the nature of the charitable purposes and activities in question. For example, latch-key children benefit a different age group than activities for post-secondary school

---

\* Terrance S. Carter, B.A., LL.B., Trade-Mark Agent, is managing partner of Carters Professional Corporation, and counsel to Fasken Martineau on charitable matters. Jacqueline M. Demczur, B.A., LL.B., is a partner at Carters Professional Corporation practicing charity and not-for-profit law. The authors would like to thank Dianne T. Hajdasz, B.Sc. (Hons.), B.Ed., J.D., Student-At-Law, for her assistance in the preparation of this *Bulletin*

<sup>1</sup> Canada Revenue Agency, Guidance CG-020, *Charitable Purposes and Activities that Benefit Youth*, (31 July 2013) online: Canada Revenue Agency <<http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/yth-eng.html>>.

<sup>2</sup> The earlier CPS-015 is only available by subscription or direct request to CRA.

students.” The Guidance also defines “at-risk youth” in paragraph 4 as “youth who are in danger of not making a successful transition to healthy and productive adulthood as a consequence of a range of possible issues, including, but not restricted to, learning difficulties, socio-economic environment, social relationships, and family/school situations.”

By contrast, the Former Policy’s definition section defined “youth” as “people who have not fully reached an age of maturity – the range is between 0 years of age and the early twenties – some full-time university students can qualify as youth if they have continuously been in school.” The Former Policy also did not define “at-risk youth” although there were references to “high-risk youth” in the body of the Policy itself. As such, it appears that the Guidance broadens the scope of the definition of youth and frees it from the limitations of an arbitrary age restriction, which clearly is a positive development.

## C. PURPOSES AND ACTIVITIES THAT BENEFIT YOUTH

### 1. Purposes that benefit youth

As is commonly understood, in order to become a registered charity under the ITA, an organization must have clearly charitable purposes, as set out in its governing documents, together with approved activities, which are the means by which its purposes will be achieved. The proposed purposes are assessed by CRA and must meet specific requirements in order to be approved as charitable. For a detailed description on charitable purposes, reference should be made to CRA’s recent Guidance on *How to Draft Purposes for Charitable Registration* at <http://www.cra-arc.gc.ca/chrts-gvng/chrts/pplyng/mdl/menu-eng.html>, summarized in our *Charity Law Bulletin* No. 318 available at <http://www.carters.ca/pub/bulletin/charity/2013/chylb318.htm>.

The Guidance differs from the Former Policy, in part, by continuously referencing the four categories of charity listed below, especially when providing examples of acceptable charitable activities in furtherance of each of them.

Specifically, to be a registered charity, the Guidance explains in paragraph 2 that an organization’s purposes must:

- a) be exclusively charitable
  - to achieve this, the organization must fall under one or more of the four categories of charity:
    - 1) relief of poverty; 2) advancement of education; 3) advancement of religion; and 4) other purposes beneficial to the community in a way the law regards as charitable;
- b) provide a public benefit
  - this means its purpose must provide a measureable and useful charitable benefit to the public or at least a sufficient segment of the public; and
- c) describe the scope of the organization's activities
  - the charity's resources are only to be used for activities that further the charitable purposes.

The organization's purposes can exist to benefit youth or, alternatively, to address and prevent the problems faced by youth. When purposes benefit youth, any of the four categories of charity could apply. However, when the purposes address youth problems, for instance substance abuse, eating disorders, teen pregnancy, family conflict, suicide, depression and juvenile delinquency, then the fourth category would likely apply.

## 2. Eligible beneficiaries

In some cases, not all people may qualify to receive benefits from a registered charity whereas, in other situations, the whole public may be eligible to receive the benefits. The term "eligible beneficiaries" identifies those people who may qualify to receive the benefits from the charitable purpose or from its respective activities. Some charities' purposes may allow all youth to benefit while other charities' purposes may only function to permit particular youth to benefit. In the Former Policy, while it was referenced therein, there was no specific section focused on "eligible beneficiaries." By contrast, the Guidance contains a separate section on the issue of eligible beneficiaries, presumably meaning this is an issue being given a greater emphasis by CRA.

The following are a few examples from paragraph 11 of the Guidance related to the first (poverty), second (education) and third (religion) categories of charity which restrict the youth permitted to participate in order to achieve a particular charitable purpose:

- "relieving poverty by distributing school supplies to youth who are poor";

- “advancing education by operating a public school, subject to applicable geographic, age, religious, or gender restrictions”; and
- “advancing a religious faith by operating a summer camp, restricted to youth of that faith.”

To determine the eligible beneficiaries for the purposes of the fourth category of charity (other purposes beneficial to the community), an organization needs to consider whether the purposes generally benefit youth or address and prevent problems faced by youth. If the purposes generally benefit youth, then they should be open to all youth, whereas if the purposes are to prevent youth problems, then they may restrict which youth can qualify when that restriction is relevant to the purpose. The following are a few examples from paragraph 12 of the Guidance addressing how purposes in the fourth category of charity can restrict participation where they are focused on problems faced by youth:

- “promoting health by providing counselling for youth who have been victims of physical or sexual abuse”; and
- “addressing problems specific to aboriginal youth by providing outreach and intervention programs.”

### 3. Activities – sufficient structure and focus

In paragraph 14, the Guidance states that the public benefit that is delivered by a charitable purpose needs to be “a reasonably direct result of the purpose and activities.” The public benefit cannot be vague and must be attainable. An incidental activity that does not further the purpose will not meet this public benefit requirement. While references to structure and focus were made in the Former Guidance in the context of describing specific types of youth organizations, the Guidance addresses this issue more generally in a separate section in the first half of the document.

As described in paragraph 15 of the Guidance, an organization must use “substantive evidence of a causal connection” to show that an activity can provide a public benefit. This may be demonstrated when an activity is structured and focused to address the identified youth problem. The activity should involve some monitoring and teaching in order to show that the activity is addressing the intended problem faced by youth.

Paragraph 17 of the Guidance then describes how an organization can demonstrate structure and focus through:

- the activity’s form (e.g. structured group discussions);
- the communications between qualified individuals and youth (e.g. making experienced adult supervisors available to counsel youth); and
- the youths’ roles and responsibilities in activities (e.g. allowing youth to participate in supervisory roles in a monitored setting).

When the charitable purposes fall under the fourth category and are restricted to particular at-risk youth, the Guidance explains that other youth that are not at-risk can participate as role models and helpers in order to provide structure and encourage the at-risk youth to participate, as long as certain conditions are met. These conditions, set out in paragraph 18, include:

- the activity should be focused on providing benefits to the at-risk youth;
- the other youth should only be present because they help provide benefits to the at-risk youth; and
- any benefits provided to the other youth must be incidental to the benefits provided to the at-risk group.

The Guidance explains that there are a variety of activities that could address or prevent problems faced by youth. A few examples of activities from paragraph 19 are:

- “mediating disputes between youth and their family members and others”;
- “developing anger management skills”; and
- “providing safe, supervised facilities for youth who would otherwise be alone after school.”

#### **D. OTHER TOPICS:**

##### **1. Advancement of education and youth**

Although the Former Policy did not have a specific “Advancement of education and youth” heading, it did discuss programs that advance education and job skills training under its heading

“Community youth organizations.” However, the Guidance now stresses a “teaching or learning component.”

In this regard, when the purpose involves the advancement of education, the Guidance makes clear that the activities must be structured and educational rather than focused on advancing a particular point of view. The activities must have a teaching or learning component, including training, plans of self-study and formal or informal instruction. It is not acceptable to just provide youth with materials and have them teach themselves. The Guidance provides examples of acceptable educational activities in paragraph 22, a few of which include:

- “teaching youth to read and write”;
- “specific career or job skills training”; and
- “teaching practical business training and experience (as part of a structured learning program).”

The Guidance explains that the content of the activities can be academic subjects or useful topics and skills, such as teaching employment interview skills. Activities that are specific to youth and that have the structured learning or teaching components are described in paragraph 23 as those that help “develop emotional and moral maturity, the ability to effectively interact with others, teamwork, co-operation, good citizenship and leadership skills.” An example, in paragraph 24, of an activity that advances youth education is “a guided visit to a historical building that has a teaching or learning component....” The Guidance makes clear that an activity without a teaching or learning component is not permitted unless that activity is secondary to a larger activity that has the learning and teaching components. For instance, it would be acceptable to take the students on a day trip to reward them for their good classroom behaviour.

## 2. Social or recreational activities

Social or recreational activities, such as youth dances or movie nights, can also be charitable if they further a charitable purpose. This is possible if the activities are structured to provide a charitable benefit to the youth participants. For example, if the supervised dance is part of a structured and focused plan to address the troubles of at-risk youth. Some important factors in making this determination are listed in paragraph 27 of the Guidance as being the degree of supervision, and the extent to which the social activities actually further the charitable purpose.

The Guidance indicates, in paragraph 28, that when addressing problems like substance abuse or delinquency, social or recreational activities are unlikely to further the charitable purpose. As explained in paragraph 29, although unstructured social or recreational activities may keep youth away from harmful environments that trigger their problems, these unstructured activities are only allowed if they are “ancillary and incidental” to the charity’s purposes.

### 3. Sports Activities

Sports activities in and of themselves are not charitable purposes at common law<sup>3</sup>. However, the Guidance states that sports activities can further charitable purposes that benefit youth when they improve self-esteem or prevent addiction. However, in order to be viewed as an acceptable activity that furthers a charitable purpose, the sports activity must be structured and focused to address the youth problem. In this regard, the charity should have evidence that there is a causal link between the sport activity and the charitable benefit since participation by youth in sports on its own is not charitable. For instance, it would be acceptable if the sport activity was part of a structured program to prevent the misbehaviour of at-risk youth. The aforementioned conditions for at-risk youth activities (see “3. Activities – sufficient structure and focus” above) also apply to sporting activities.

### 4. Drop-in centres

Paragraphs 35 to 37 of the Guidance explain that drop-in centres may have different charitable purposes that are each tailored to benefit different groups of youth. For instance, a drop in centre can prevent misbehaviour of at-risk youth through anger management skill training and also prevent drug addiction amongst youth through peer support. A centre’s activities must be structured, focused and designed to address or prevent youth problems. Youth may also assist in the activities and decision-making processes, such as planning fundraising activities. Centres often provide counselling and/or life skills training with:

- a safe environment that prohibits violence and illicit substances;
- adult supervision to help direct activities and deal with conflicts or emergencies. The centres may work with social workers, physicians, psychologists and conflict mediators; and

---

<sup>3</sup> See *A.Y.S.A. Amateur Youth Soccer Association v Canada (Revenue Agency)*, [2007] SCJ No 42, 2007 SCC 42 (SCC).

- participation with police, courts, schools or social services that help youth.

The Guidance recommends that drop in centres use screening processes or qualification standards to select who will work with the youth, since this can be an effective way to demonstrate that activities are structured, focused and aimed to address youth problems.

## E. CONCLUSION

One aspect of the Guidance that is notable is CRA's frequent usage of the terms "structured" and "focused" in relation to evidencing that a specific activity is actually achieving a charitable purpose that benefits youth. This concept will be of great assistance to any organization that is uncertain as to what CRA will be looking for in evaluating an application for charitable status. As well, the Guidance does a good job of striking the right balance between explaining what constitutes a charitable purpose to benefit youth and what are appropriate activities to actually carry out in order to achieve such a purpose. With the generous use of examples and relegating the technical details to the footnotes, CRA has produced a helpful reference tool for both practitioners and the sector in general in relation to organizations that benefit youth.