

NEW COMPREHENSIVE GUIDANCE FOR CHARITIES ON ADVANCEMENT OF EDUCATION FROM CRA

By Jacqueline M. Demczur*

A. INTRODUCTION

EIGHT POLICY DOCUMENTS have been effectively replaced by a new guidance for charities from the Canada Revenue Agency (“CRA”). The CRA’s Charities Directorate published the new guidance, [CG-030, *Advancement of education and charitable registration*](#) (the “New Guidance”)¹ on November 27, 2020. Although the collection of previous documents is still accessible on the CRA website, the New Guidance states that it replaces each of the following: Policy commentary CPC-027, *Publishing a magazine*; Policy statements CPS-003, *Daycare facilities*, CPS-013, *School councils*; and Summary policies CSP-B05, *Broadcasting*, CSP-S08, *Scholarships*, CSP-E01, *Advancement of education*, CSP-I06, *Provision of information*, and CSP-S09, *School associations*.

This *Charity & NFP Law Bulletin* offers a general overview of the contents of the New Guidance.

B. EDUCATION AS A CHARITABLE CATEGORY

IN ITS INTRODUCTION, the New Guidance explains that Canadian charities are registered pursuant to the *Income Tax Act*,² and include three types: charitable organizations, public foundations and private

* Jacqueline M. Demczur, B.A., LL.B., is a partner at Carters Professional Corporation practicing charity and not-for-profit law. The author would like to thank Martin U. Wissmath, B.A., J.D., Student-at-law, for his assistance in preparing this *Bulletin*.

¹ Canada Revenue Agency, Guidance CG-029, “Advancement of education and charitable registration” (27 November 2020), online: <https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/advancement-education-charitable-registration.html>.

² RSC, 1985, c 1 (5th Supp).

foundations. Each of these is hyperlinked to the CRA's [Charities and giving glossary](#) webpage for further information on the different types.³

A description of the general requirements for determining eligibility for registering a charity follows. This requires that the purposes or objects of the organization, as stated in its governing documents, must be exclusively charitable by satisfying the following three elements: 1. the purpose must fit within a category of charity, namely relief of poverty, advancement of education, advancement of religion, or other purposes "beneficial to the community" in a way that Canadian law regards as charitable; 2. the purpose must provide a "public benefit"; and 3. the purpose must "define the scope of the organization's activities". The public benefit requirement is outlined in detail, with further references to [Policy statement CPS-024, Guidelines for registering a charity; Meeting the public benefit test](#), as well as [Guidance CG-017, General requirements for charitable registration](#).

The New Guidance traces the CRA's limited definition of education as a charitable purpose to the common law, citing in particular the 1999 Supreme Court of Canada case, *Vancouver Society of Immigrant and Visible Minority Women v MNR* ["*Vancouver Society*"]⁴ In that case, Justice Iacobucci noted that Canadian charity law does not use "education" in the "plain meaning" of the word, but follows precedent "by way of analogy to other cases" that have been decided.⁵ Canadian courts held education as a charitable purpose to mean academic subjects taught in a classroom at schools, colleges and universities, but also to encompass research. *Vancouver Society* expanded the meaning to include training to "advance the knowledge or abilities of the recipients."⁶ Iacobucci J articulated how the law of charity evolves with the meaning of education reflecting changes in society.⁷

The New Guidance then reviews the current understanding of advancement of education as a charitable purpose, which includes:

³ Canada Revenue Agency, *Charities and giving glossary*, online: Government of Canada <<https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/charities-giving-glossary.html>>.

⁴ [1999] 1 SCR 10, 169 DLR (4th) 34 [*Vancouver Society*].

⁵ *Ibid* at para 165.

⁶ *Ibid* at para 169.

⁷ *Ibid* at para 150.

- Training that provides knowledge or develops abilities
- Improving a useful branch of human knowledge through research

In the New Guidance, there is a focus on the first of these purposes, and the criteria necessary for it to be considered charitable. The second purpose, improving a useful branch of human knowledge through research, is explained in more detail in the existing [Policy statement CPS-029, *Research as a charitable activity*](#).

C. TRAINING AS A CHARITABLE PURPOSE

THERE ARE two groups of purposes “that educate through training” according to the New Guidance:

- a. Purposes that educate through structured and targeted teaching or learning
- b. Other purposes the courts have recognized to advance education

Citing *Vancouver Society*, the New Guidance describes the first group as education through formal or traditional classroom instruction as well as workshops, seminars or self-study.⁸ A list of examples is given, which includes operating a private secondary school in a location specified by the charity; continuing education for adults in business and accounting in a community specified by the charity; providing distance learning programs in business and accounting to the public; and providing courses, seminars and workshops on topics such as finance and accounting, Indigenous art history or car maintenance to the public.

To be considered charitable, the New Guidance emphasizes that the education being advanced must meet both the “content” and “process” criteria, and provides detailed information on each of these together with extensive footnotes from Canadian case law. With regard to content of the education, the subject matter must be “useful” and have “educational value”, and its focus must not be on promoting a certain point of view. Then, in relation to the process criteria (*i.e.* structured and targeted teaching or learning), the

⁸ *Ibid* at para 168.

education must be provided in a structured format, there must be a “legitimate, targeted attempt to educate”, and there must be a teaching or a learning component.

The New Guidance also lists other charitable purposes that Canadian case law has recognized under the category of advancing education, many of which are related to and support “formal or traditional classroom education.” This includes: charities that provide scholarships, prizes or other financial assistance to students; tuition fees, educational facilities, teachers or equipment and supplies; sports; community clubs; alumni associations/school councils; student unions; and museums and libraries.

Details of the requirements, together with examples, are given for each of these other charitable purposes. One such purpose is scholarships and financial assistance, with the New Guidance explaining the restrictions for beneficiaries to meet the public benefit test, how beneficiaries are selected, and information for charitable organizations to assess eligibility. Another purpose is education involving sporting activities. While the CRA makes clear that the promotion of sport is not charitable, the New Guidance explains that, where the content and process criteria are met, a purpose to educate students by providing sporting activities and facilities can be charitable. Further information is available in [Policy statement CPS-027, Sports and charitable registration](#). A third purpose is alumni associations and school councils, whose funds, in order to be considered charitable gifts, must be given to an institution which is “a registered charity or other qualified donee.”

D. “SPECIAL TOPICS” FOR ADVANCING EDUCATION

CERTAIN TOPICS may or may not meet the CRA’s elucidated requirements to be acceptable as a charitable purpose of advancing education, depending on whether they meet the mandatory content and process criteria. The New Guidance describes these in detail, including among others: production and broadcasting; publishing; conferences; vocational or professional education; and daycare programs. More information on each of these is offered in the New Guidance, with citations and references.

E. CONCLUSION

IN REPLACING ITS predecessor policy documents, the New Guidance is a comprehensive document that improves and adds to the CRA's body of public knowledge, and better explains what the CRA is looking for from registered charities established to advance education. Charities are encouraged to read the New Guidance document for their own benefit and monitor for more of these informative guidance documents from the CRA in the future.



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