Canadian Centre for Philanthropy ™
Le Centre canadien de philanthropie MC

INTERPRETATION GUIDE: THE *ETHICAL FUNDRAISING & FINANCIAL ACCOUNTABILITY CODE*

Purpose of this Guide:

This Guide has been developed by the Canadian Centre for Philanthropy ("CCP" or the "Centre") to assist in the interpretation and application of the Centre's *Ethical Fundraising & Financial Accountability Code* (the "*Code*").

The *Code* prescribes standards of ethical conduct to be followed by charitable organizations in managing their fundraising activities. In the sections that follow, we expand upon each individual standard with a commentary containing guidelines for ethical practice and, where appropriate, examples of ethical and unethical conduct.

We do not consider this Guide to be a comprehensive summary of all that charitable organizations can or should do to assess, and change if necessary, their fundraising practices. Instead, it is designed to assist governing boards and staff leaders in applying the *Code* and evaluating the ethical quality of their organization's fundraising policies and to stimulate greater ethical awareness and discussion. The *Code* and this Guide will also improve the public's awareness and understanding of ethical fundraising practices and will help donors to make informed decisions regarding the organizations they choose to support. We have tried to furnish a Guide that is easy to read while avoiding fundraising jargon. If you come upon a term or phrase that is unfamiliar, please refer to the Glossary. Key defined terms are underlined in the text that follows.

The *Code* addresses issues that are difficult to state absolutely. It will be subject to judgment and interpretation and we anticipate that new and unforeseen issues will emerge. For this reason, the standards are not exhaustive but evolving. They are expected to grow with experience and will, over time, be revised to reflect practice, laws and regulations as they change.

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Fundraising practices – the methods employed and the integrity with which monies are subsequently used – have an important influence on the public's perception of charitable organizations. The Canadian Centre for Philanthropy is indebted to the Muttart Foundation and the Donner Canadian Foundation for the financial support they have provided for this project and for their continuing interest in strengthening the capacity of the voluntary sector.

If you have questions or comments regarding the contents of this Guide, please forward them to:

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Ethical Fundraising & Financial Accountability Code

Introduction

This *Ethical Fundraising & Financial Accountability Code* has been developed by the Canadian Centre for Philanthropy, in consultation with charity leaders throughout Canada. Its primary purpose is to assure donors of the integrity and accountability of charities that solicit and receive their financial support.

Charities that adopt this *Ethical Fundraising & Financial Accountability Code* commit to fundraising practices that respect donors' rights to truthful information and to privacy. They also commit to manage responsibly the funds that donors entrust to them, and to report their financial affairs accurately and completely.

Donors or prospective donors who have questions or concerns about fundraising activities should contact the charity on whose behalf the funds are being solicited. Charities that adopt the *Ethical Fundraising & Financial Accountability Code* are committed to deal with such queries promptly and fairly. The Charities Division of the Canada Customs and Revenue Agency also provides information and receives complaints about registered charities at 1-800-267-2384.

This *Ethical Fundraising & Financial Accountability Code* complements the professional codes of ethics and standards of practice to which many fundraisers individually adhere (such as those of the Association of Fundraising Professionals, the Association for Healthcare Philanthropy, the Canadian Association of Gift Planners, and other national, provincial or sectoral organizations).

There are some forms of revenue raising for which official receipts are not issued for income tax purposes (for example, charitable gaming transactions, proceeds from product sales, affinity card or product fees, and market value charges for charitable benefits, tournaments, banquets, events or activities). These activities may be governed by specific legal requirements and/or involve additional ethical considerations that are not addressed in this *Ethical Fundraising & Financial Accountability Code*.

In order to be recognized by the Canadian Centre for Philanthropy as having adopted this *Ethical Fundraising & Financial Accountability Code*, a charity's governing board must pass the following motion as a formal resolution:

> "[Name of charity] hereby adopts the Canadian Centre for Philanthropy's *Ethical Fundraising and Financial Accountability Code* as its policy. In so doing, members of the governing board commit to being responsible custodians of donated funds, to exercise due care concerning the governance of fundraising and financial reporting, and to ensure to the best of their ability that the organization adheres to the provisions of the *Code*. It is hereby confirmed that each member of the governing board has received a copy of the *Ethical Fundraising & Financial Accountability Code* and that a

copy will also be provided to each person who is subsequently elected to the governing board."

Charities that adopt the *Code* may be added to the list on the Canadian Centre for Philanthropy's web site by completing the online registration at http://www.ccp.ca/information/documents/code_registration.htm, or alternatively by contacting:

Canadian Centre for Philanthropy
425 University Avenue, Suite 700
Toronto, Ontario
M5G 1T6

fax: (416) 597-2294,
e-mail: code@ccp.ca

Commentary:

(a) Maintaining public trust in charitable organizations requires that they act in a manner that is transparent and that withstands scrutiny – discharging this responsibility entails operating within the law, but it also goes beyond that. This *Code* builds on the legal requirements that govern charities, and prescribes a set of standards as benchmarks of fairness, integrity, honesty and respectful practice in fundraising programs.

(b) Behind every standard in this *Code* is the premise that the sector's reputation is enhanced when organizations conduct their fundraising activities in a manner that is credible and above reproach.

(c) The *Code* does not deal with some issues or circumstances that are governed by specific legislation, such as contributions solicited or events authorized under federal or provincial lottery and charitable gaming statutes (*e.g.*, games of chance such as charity-sponsored: raffles, pull tickets, lotteries, bingos or casino nights). Nor does the *Code* deal with fee-for-service or commercial activities, even where they are carried out by a charity.

A. Donors' Rights

1. All donors (individuals, corporations, and foundations) are entitled to receive an official receipt for income tax purposes for the amount of the donation. Donors of non-monetary eligible gifts (or gifts-in-kind) are entitled to receive an official receipt that reflects the fair market value of the gift. (Note: The term "Eligible gifts" is comprehensively defined by CCRA. A full definition can be found in CCRA's Interpretation Bulletin dealing with gifts and official donation receipts. Some common gifts, such as donations of volunteer time, services, *etc*., are not eligible to receive official tax receipts.) The charity's governing board may establish a minimum amount for the automatic issuance of receipts, in which case smaller donations will be receipted only upon request.

Commentary:

Guidelines:

(a) Charitable organizations should establish clear policies regarding the issuance of official receipts. Particular attention should be given to situations where:

- no receipts should be issued (*e.g.*, mixed purchase and donations, gifts of service, donations that directly or indirectly benefit the donor, *etc.*);
- receipts may only be issued in special circumstances (*e.g.*, donations with inducements, dinner/auction events, *etc.*); or
- there are special valuation requirements (*e.g.*, gifts-in-kind, items donated for auction, donation of prizes, *etc.*)

(b) Use of an independent appraiser is recommended to determine the value of gifts with a fair market value in excess of $1,000. This practice is not mandatory, and in cases where obtaining an independent appraisal is cost prohibitive or not feasible, CCRA may accept an internal appraisal. In any event, the onus is on the charity to satisfy CCRA that the receipt it issues reflects the fair market value of the gift. An independent appraiser should:

- have no connection to either the charitable organization or the donor;
- be familiar with the market for the object being donated; and,
- determine the value of the gift as of the date of the donation.

(c) Although public and private grant-making foundations obtain no tax advantage when an official receipt is issued for a contribution they make, there is no prohibition against issuing receipts to foundations and many prefer to receive one. Care should be taken to distinguish receipts issued for tax purposes and those issued merely to confirm funding has been received. If the receipt is solely to acknowledge receipt of funding, it should indicate: "Not For Tax Purposes"; the charity should be aware that any income tax receipt issued (even one given to a foundation) will affect the charity's disbursement quota for the following year.

(d) The Canada Customs and Revenue Agency has a number of helpful publications that address charitable receipting issues. Materials include: a booklet entitled *Tax Advantages of Donating to Charities – RC4142(c) 1507* (released 3 October 1999), a pamphlet entitled *Gift and Income Tax – P113*, Interpretation Bulletin IT-110R3 (released 20 June 1997) and various issues of the *Registered Charities Newsletter*. All are available at the Canada Customs and Revenue Agency's website: www.ccra-adrc.gc.ca.

2. All fundraising solicitations by or on behalf of the charity will disclose the charity's name and the purpose for which funds are requested. Printed solicitations (however transmitted) will also include its address or other contact information.

Commentary:

Guidelines:

(a) All communications with donors and potential donors should include a statement of the purpose of the fundraising appeal and sufficient contact information to facilitate further inquiries about or to the charitable organization.

(b) Care should be taken not to mislead donors or prospects into believing that their contribution will be used for a specific project, if this is not the case. Where an appeal is made for funds for general use, it is good practice to clearly identify any projects mentioned in fundraising solicitations as examples of the charity's work.

(c) It is preferable to provide the charity's complete address. Where this is not practical (*i.e.*, the charity does not have its own office) or reasonable given the nature of the charitable activity or the nature of the solicitation (*e.g.*, by telephone), sufficient information should be included to enable donors or potential donors to contact the organization during regular business hours and speak to an employee or volunteer who can respond to their questions.

(d) Either its legal name or another name that is filed may identify the charity with the Charities Division of the Canada Customs and Revenue Agency.

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3. Donors and prospective donors are entitled to the following, promptly upon request:

- the charity's most recent annual report and financial statements as approved by the governing board;

- the charity's registration number (BN) as assigned by the Canada Customs and Revenue Agency;

- any information contained in the public portion of the charity's most recent Charity Information Return (form T3010) as submitted to the Canada Customs and Revenue Agency;

- a list of the names of the members of the charity's governing board; and,

- a copy of this *Ethical Fundraising & Financial Accountability Code*.

Commentary:

Guidelines:

(a) Charitable organizations recognize that they are responsible and accountable to donors and therefore disclose all information (*e.g.* financial statements, annual reports, public filings) that will reasonably add to the public's understanding of, and confidence in, their operations and in their methods and costs of fundraising.

(b) Charitable organizations should reply promptly to all requests for information.

(c) The "financial statement" referenced in this section should be, or be based on, the organization's most recent financial statement as approved by the governing board or the financial statement filed with the Canada Customs and Revenue Agency in the organization's most recent T3010.

(d) Financial statements should provide enough information to serve as a basis for informed decision-making by donors, and:

- shall accurately present the financial activities and overall financial position of the organization;
- should be prepared in accordance with Generally Accepted Accounting Principles ("GAAP") in all material aspects, as well as any other appropriate guidelines adopted by the Canadian Institute of Chartered Accountants ("CICA") for the type of charitable organization involved; and,
- shall disclose, at minimum, the information set out at Standard C4.

(e) All financial summaries or extracts presented separately from an organization's financial statement should be clearly related to and consistent with the information contained in the full financial statement including notes.

(f) This Standard should be read with Section C4, below.

Examples of Ethical Practice:

- The organization's governing board reviews the entire annual report for consistency with the financial statement.

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4. Donors and prospective donors are entitled to know, upon request, whether an individual soliciting funds on behalf of the charity is a volunteer, an employee, or a hired solicitor.

Commentary:

Guidelines:

(a) Training of fundraisers, whether volunteer or paid, should include a briefing about the donor's right to know the fundraiser's status.

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5. Donors will be encouraged to seek independent advice if the charity has any reason to believe that a proposed gift might significantly affect the donor's financial position, taxable income, or relationship with other family members.

Commentary:

Guidelines:

(a) Charitable organizations shall ensure, to the best of their ability, that donors and potential donors receive thoughtful, considered and impartial advice about the financial implications of their charitable gifts.

(b) This standard does not require that charitable organizations investigate a donor's financial position to determine the financial effect of a contribution. However, there may be circumstances where it is prudent and appropriate to encourage a donor to obtain independent advice (see examples below).

Examples of Ethical Practice:

- Recommending that a potential donor obtain independent advice regarding a proposed gift where any one of the following factors are present:

- where a large donation is sought;
- where an endowment or multi-year gift is solicited;
- where a conflict of interest has been disclosed by the charity;
- where the manner in which a donation is structured has significant tax or estate planning consequences; or
- where the competency of the donor is in question.

▪ Confirming, in writing, a recommendation that a donor obtain independent advice regarding the financial implications of a donation.

Examples of Unethical Practice:

▪ Purporting to advise a donor on the tax consequences of a specific charitable gift without detailed knowledge of the relevant tax law and the donor's financial responsibilities and capabilities.

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6. Donors' requests to remain anonymous will be respected

Commentary:

Guidelines:

(a) Every donor has the right to confidentiality in their affairs and the right to require that their identity and/or the amount of their gift is not publicly disclosed.

(b) A donor's right to anonymity is limited only by legal requirements to disclose.

Examples of Ethical Practice:

▪ Providing donors with an opportunity to state that they prefer to remain anonymous and that their name and/or the amount of their gift should not be publicly released.

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7. The privacy of donors will be respected. Any donor records that are maintained by the charity will be kept confidential to the greatest extent possible. Donors have the right to see their own donor record, and to challenge its accuracy.

Commentary:

Guidelines:

(a) A charitable organization ensures its own integrity and that of the sector through the proper use and management of all personal donor information, or personal information about prospects, in its possession. Every organization should carefully safeguard the confidentiality of information which donors or prospects would reasonably expect to be private.

(b) Charitable organizations guard against making unwarranted or intrusive inquiries into a donor or prospect's gift history or personal life. They seek and record only information that is relevant and necessary to their fundraising efforts.

(c) Every reasonable effort should be made to ensure that all personal information collected is complete and accurate. Donors or prospects should, upon request, be able to review, correct, clarify or update personal information.

(d) The duty of confidentiality continues after the professional relationship with a donor or prospect has ended.

Examples of Ethical Practice:

- Developing a written policy, based on the applicable law, regarding the collection, maintenance, use and confidentiality of <u>donor or prospect records</u>. The policy should, at minimum:

  - define the scope of information to be gathered, the conditions under which it may be released and to whom;
  - require a donor or prospect's consent before confidential information is released;
  - require attribution for all data collected;
  - clearly establish and enforce retention and disposal periods for donor or prospect information;
  - confirm a donor or prospect's right to confidentiality and establish safeguards to protect confidentiality;
  - specify who may authorize access to donor and prospect's files and under what conditions; and,
  - assure the accuracy and relevancy of information and specify the means through which information can be corrected, clarified, challenged or updated by donors or prospects.

- Requiring that volunteers and professional staff be discrete in discussing information about donors or prospects. All communications and conversations about donors and prospects should be conducted in a manner that maintains confidentiality.

- Ensuring that information, including research, about donors or prospects is stored securely and properly disposed, to prevent access by unauthorized persons. Electronic data collection imposes a higher standard of care for the protection of donor or prospect information. At minimum, organizations should use virus-detection software, security access codes and backup programs.

- Giving special protection to all records pertaining to anonymous donors.

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8. If the charity exchanges, rents, or otherwise shares its fundraising list with other organizations, a donor's request to be excluded from the list will be honoured.

Commentary:

Guidelines:

(a) As of January 1st, 2001, by law, charitable organizations must give donors the opportunity to have their names removed from lists that are rented, traded or shared with other organizations. This communication may stand alone or may be incorporated within another broader piece such as a mailing or newsletter. If this communication is incorporated within a broader piece, care should be taken to ensure that it is prominent.

(b) New federal privacy legislation[1] sets new standards for the collection, use and disclosure of personal information, including "donor, membership or other fundraising lists." Organizations must obtain an individual's knowledge and consent before personal information is collected and subsequently used or disposed and must limit the collection to only that which is necessary to fulfill their identified purposes. All *Code* adherents have an obligation to be familiar with and abide by the requirements of the law.

(c) This Standard should be read with Section B4, below.

Examples of Ethical Practice:

- Providing a check-off box to allow individuals to request that their name and addresses not be rented, traded or shared with other organizations. Individuals who do not check the box are assumed to consent to the transfer of this information to third parties.

- Obtaining an individual's oral consent to the release of information, when data is collected over the phone.

[1] Bill C-6, *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5.

Examples of Unethical Practice:

- Renting, trading or otherwise sharing lists of donors or prospects' names and addresses without first providing donors or prospects with an opportunity to have their names deleted from such lists.

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9. Donors and prospective donors will be treated with respect. Every effort will be made to honour their requests to:

   - limit the frequency of solicitations;
   - not be solicited by telephone or other technology; or
   - receive printed material concerning the charity.

Commentary:

Guidelines:

(a) Fundraising activities should be conducted so as to preserve and enhance the public's confidence in the integrity of the individual charity and the voluntary sector as a whole. Disregard of donors or prospects' express wishes regarding the manner or frequency of contact is contrary to good practice and reflects poorly on the entire sector.

(b) This Standard should be read with Section B2, below.

Examples of Ethical Practice:

- Having a formalized protocol in place to record donor or prospect requests regarding the manner and frequency of contact, and including methods to ensure that the donor or prospect's instructions are relayed to marketing and fundraising staff.

Examples of Unethical Practice:

- Telling donors or prospects who are solicited by telephone that it is "too expensive" to provide them with written information about the charitable organization.

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10. The charity will respond promptly to a complaint by a donor or prospective donor about any matter that is addressed in this *Ethical Fundraising & Financial Accountability Code.* A designated staff member or volunteer will attempt to satisfy the complainant's

concerns in the first instance. A complainant who remains dissatisfied will be informed that he/she may appeal in writing to the charity's governing board or its designate, and will be advised in writing of the disposition of the appeal. A complainant who is still dissatisfied will be informed that he/she may notify the Canadian Centre for Philanthropy in writing.

Commentary:

Guidelines:

(a) In order to ensure that complaints arising under this *Code* are fairly and promptly addressed, every charitable organization should designate a staff person or volunteer to be responsible for receiving and responding to donor complaints.

(b) Complaints should be investigated and addressed thoroughly, professionally and without bias.

(c) Donors or prospects may appeal the initial disposition of the complaint to the charity's governing board (or to a committee or ombudsperson established by the board), which will consider the matter and render a decision in writing.

(d) Donors or prospects who remain dissatisfied with the resolution of their complaint must be informed that they may write to the Canadian Centre for Philanthropy at 700-425 University Avenue, Toronto, M5G 1T6.

(e) The charitable organization's governing board bears ultimate responsibility for the ethical conduct of all fundraising activities and should make certain that fundraising staff and volunteers are aware of and familiar with the requirements of this *Code*.

(f) This Standard should be read with Section B5, below.

Examples of Ethical Practice:

- All persons associated with fundraising activities, and new Board members, are educated in the meaning and importance of the *Code* and of ethical conduct in general, as well as the rationale behind the *Code* and how the specific language of the *Code* relates to actual practices within the organization.

- Copies of the *Code* are posted and are made available to all employees and at the orientation of new staff. Articles regarding ethical conduct appear in in-house publications or newsletters and presentations are made at staff and board meetings. The *Code* is reproduced in the organization's annual report.

- The governing board approves an internal procedure to address donor or prospect complaints.

B. Fundraising Practices

1. Fundraising solicitations on behalf of the charity will:

   - be truthful;

   - accurately describe the charity's activities and the intended use of donated funds; and,

   - respect the dignity and privacy of those who benefit from the charity's activities.

Commentary:

Guidelines:

(a) All marketing, advertising and public information materials prepared in connection with fundraising campaigns must be forthright and truthful and should accurately describe the organization's mission, programs and use of solicited funds.

(b) Fundraising communications should contain no material omissions, exaggerations of fact, misleading photographs, nor any other information that would tend to create a false impression or misunderstanding. Solicitations should be constructed so that the public response is based on the reality of the situation and the organization's actual capacity and not on deliberate misinformation or manipulation.

Examples of Ethical Practice:

- The meticulous collection and presentation of accurate and properly documented information and statistics in charitable fundraising solicitations.

- In printed materials, using only endorsements actually made by an individual or entity.

- Ensuring that all fundraising materials (including scripts) accurately describe the charity, its activities, and the purposes for which donations will be used.

- Providing written instructions to door-to-door canvassers and telephone solicitors advising them of the serious consequences of misrepresentation.

- Ensuring that telephone fundraising scripts disclose, at the outset, the identity of the organization and the purpose of the call (*e.g.*, to request support, a donation, *etc.*)

Examples of Unethical Practice:

- Presenting false or misleading information about the charity – *e.g.*, the organization's mission or achievements, the size and breadth of unmet need, numbers of clients served, demographics of clients served, or programs planned.

- Negative option marketing practices, such as mailings or other materials that mimic official billing notices and are intended to mislead potential donors into believing that a commitment to contribute was previously made.

- Fundraising under the guise of carrying out market research or a public opinion survey ("frugging"). In the case of multiple purpose contacts with donors or potential donors, the charitable organization promptly discloses the fundraising goals of the contact.

- Fundraising solicitations that:

  - overstate the true effect of a donation;
  - cause the donor or potential donor to believe that their failure to respond will have more direct consequences than the reality of the situation would warrant;
  - take advantage of vulnerable groups such as the elderly or those recently bereaved, who may be confused, forgetful or lonely;
  - depict or identify the charity's clients/beneficiaries without their express written consent; or,
  - include misleading, demeaning or exploitative portrayals of the charity's clients/beneficiaries.

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2. Volunteers, employees and <u>hired solicitors</u> who solicit or receive funds on behalf of the charity shall:

   - adhere to the provisions of this *Ethical Fundraising & Financial Accountability Code*;

   - act with fairness, integrity, and in accordance with all applicable laws;

   - adhere to the provisions of applicable professional codes of ethics, standards of practice, *etc*.;

   - cease solicitation of a prospective donor who identifies the solicitation as <u>harassment or undue pressure</u>;

   - disclose immediately to the charity any actual or apparent <u>conflict of interest</u>; and,

- not accept donations for purposes that are inconsistent with the charity's objects or mission.

Commentary:

Guidelines:

(a) Contracts between a charity and a hired solicitor should specify that all fundraising activities undertaken on behalf of the charity will be conducted in a manner that is consistent with the provisions of this *Code.*

(b) Charitable organizations should exercise effective control over volunteers, employees and hired solicitors and take all reasonable steps to ensure that every person participating in a fundraising program is aware of and complies with this *Code*.

(c) Charitable organizations should inform volunteers, employees and hired solicitors about the provisions of all municipal, provincial and federal laws applicable to the organization's fundraising practices and and take all reasonable steps to ensure that fundraising activities are carried out in accordance with the law.

(d) Charitable organizations should encourage volunteers, employees and hired solicitors to adhere to the applicable professional codes of conduct, such as: the Canadian Association of Gift Planners' ("CAGP") *Standards of Professional & Ethical Practice*, the Association of Fundraising Professionals ("AFP"), *Code of Ethical Principles and Standards of Professional Practice*, the Association of Healthcare Philanthropy's ("AHP") *Statement of Professional Standards and Conduct*, *etc*.

(e) Fundraising solicitations should encourage voluntary giving and should not apply undue or unwarranted pressure.

(f) Volunteers, employees and hired solicitors who solicit funds on behalf of the organization must:

- act in the best interests of the charitable organization rather than in furtherance of personal interests or the interests of third parties;
- avoid situations in which their personal interest conflicts with their duties within the organization; and,
- evaluate their conduct and decisions in light of the impact on the organization.

(g) The obligation to disclose even an "apparent conflict of interest" requires a consideration of public and donor perceptions when assessing whether a conflict of interest is present.

(h) This standard requires individual fundraisers to fully disclose all actual or apparent conflicts of interest to the charity. Full disclosure enables the charity to make an informed decision regarding a fundraiser's ability to continue to act on behalf of the organization in spite of the conflict.

(i) Charitable organizations should be mindful of their fiduciary duty to ensure the disclosure of any conflict of interest that would be of material interest or relevance to a donor or prospect, or which may influence a decision to give. Where a donor elects to make a gift in spite of the presence of a conflict of interest, the charity should advise that the donor obtain independent advice regarding their gift.

(j) This Standard should be read together with Sections A4 and A9, above.

Examples of Ethical Practice:

- The leadership of a charitable organization takes responsibility for keeping up with changes in federal, provincial and municipal laws and regulations that apply to the organization's fundraising programs.

- All reports that must be filed as part of applicable regulatory regimes are completed properly and in a timely fashion.

- Volunteers, employees, and hired solicitors act in accordance with the law, exercise due diligence before entering into contracts for fundraising services and, when unsure, seek legal counsel.

- A written conflict of interest policy, applicable to volunteers (including board members), employees and independent contractors (including hired solicitors) is in place, and:

  - identifies conduct or transactions that raise conflict of interest concerns;
  - requires immediate disclosure of actual, potential or apparent conflicts; and,
  - sets out procedures for disclosure.

- Proper and effective control is exercised over hired solicitors and all reasonable steps, including appropriate references in contracts, are taken to ensure that hired solicitors comply with this *Code* and its Standards.

Examples of Unethical Practice:

- Engaging in fundraising methods widely considered to be disreputable or employing fundraising approaches that offend a significant segment of the public.

- Excessive and coercive fundraising tactics include, but are not limited to:

  - negative option marketing practices, such as solicitations in the guise of invoices or the delivery of unordered items without informing recipients that they are under no obligation to pay for or return;
  - repeated or continued solicitations following a request that contact stop; and,
  - strongly emotional appeals which distort the charity's activities or beneficiaries.

- Accepting a donation that the donor indicates is intended to support an activity or program in which the charity does not, and does not intend to, engage.

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3. Paid fundraisers, whether staff or consultants, will be compensated by a salary, retainer or fee, and will not be paid finders' fees, commissions or other payments based on either the number of gifts received or the value of funds raised. Compensation policies for fundraisers, including performance-based compensation practices (such as salary increases or bonuses) will be consistent with the charity's policies and practices that apply to non-fundraising personnel.

Commentary:

Rationale:

Few Standards have incited as much debate as the *Code's* prohibition against commission-based compensation. The rationale for the rule is as follows:

- The cost of consultants and total fundraising expenses are significantly higher when fundraisers receive a percentage-based payment rather than a flat fee.[2]

- Charitable organizations operate for the public good and receive special rights (most notably, the right to issue charitable tax receipts) and tax exemptions for so doing. Percentage-based compensation works to the private benefit of the individual fundraiser and, arguably, damages the underpinnings of the "contract" that charitable organizations have with society.

- A set salary, retainer or fee recognizes the value of professional fundraising solicitors independently of the fundraising outcome (which cannot be guaranteed).

- There is an inherent conflict of interest in percentage-based compensation: fundraisers negotiate gifts that also benefit them personally, possibly to an even greater extent than the charitable organization. Ethical fundraising should be mission-led, institutionally-based, volunteer-driven and professionally supported in an environment free of improper motive, unreasonable reward, or personal gain.

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[2] M.H. Hall, *Charitable Fundraising in Canada: Results from a national survey of fundraising practices of Canadian charities*, (Canadian Centre for Philanthropy, 1996) at 49. Hall's research shows that the median cost ratio for campaigns employing a flat fee fundraiser was 26% as compared to 59% for fundraisers compensated on a percentage basis. See also: J. Greenlee, T. Gordon, "The Impact of Professional Solicitors on Fund-Raising in Charitable Organizations" (September 1998) 27 Nonprofit and Voluntary Sector Quarterly, no. 3 at 277-299. Gordon and Greenlee's research shows that charities using fundraising solicitors paid on a fixed-fee generated significantly higher (almost double) contributions than those compensated by commission or a combination of fixed-fee and percentage.

- Successful fundraising programs are built on the development of long-term relationships with donors. Percentage-based compensation for fundraisers provides an incentive to maximize immediate revenue from the current campaign, and may undermine the long-term interests of the charitable organization.

- Percentage-based compensation undermines the donating public's confidence by diverting or appearing to divert donated funds into private pockets. Donors and potential donors may be alienated and may reconsider their decision to give if it is perceived to benefit the person making the donation request rather than the organization.

- To charge a commission based on the amount of funds raised is generally viewed as unethical by fundraising professionals. Virtually all of the leading non-profit sector professional fundraising organizations (*i.e.* AFP, CAGP, Council for the Advancement and Support of Education ("CASE"), Association of Healthcare Philanthropy ("AHP"), *etc.*) prohibit their membership from accepting percentage-based or commission compensation structures.

Guidelines:

(a) Fundraisers (whether staff or hired solicitors) are compensated on the basis of their experience, expertise and the time requirements of the position.

(b) Charitable organizations may offer performance-based compensation packages, such as bonuses, where a fundraiser (whether staff or hired solicitors) exceeds job expectations. The following conditions apply:

- there is a performance-based compensation policy in place that is applicable to staff engaged in non-fundraising activities whose efforts surpass expectations;
- the governing board approves the policy;
- performance goals are pre-established; and,
- the criteria for determining eligibility for and the amount of performance-based compensation does not include consideration of a percentage of income (*e.g.*, in the form of donations, gifts, grants and similar funds) received by the organization as a result of the individual's efforts.

(c) Charitable organizations invest time in developing a fundraising program that will produce results – but do not expect only to raise significant dollars in the short term. New organizations undertake the institutional planning, board development, and volunteer recruitment necessary to make them financially successful over time.

Examples of Ethical Practice:

- Recognizing the difference between percentage-based compensation and a bonus plan, and accepting that only the latter is an appropriate component of an organization's compensation practices.

- Refusing to pay a finder's fee, recognizing that it is unethical to pay a fee for the purpose of generating a gift or obtaining a corporate sponsorship.

Examples of Unethical Practice:

- Resorting to percentage-based compensation because the charitable organization lacks sufficient resources to remunerate a fundraiser on a favourable basis.

- Disguising compensation as a salary, fee or bonus when it is in fact calculated as a percentage of funds raised.

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4. The charity will not sell its donor list. If applicable, any rental, exchange or other sharing of the charity's donor list will exclude the names of donors who have so requested (as provided in section A8, above). If a list of the charity's donors is exchanged, rented or otherwise shared with another organization, such sharing will be for a specified period of time and a specified purpose.

Commentary:

Guidelines:

(a) The governing board of a charitable organization should give formal approval to all policies regarding the use of donor lists.

(b) Donor lists are an income-producing asset of the charitable organization. Relinquishing control of a donor list by selling it or diminishing its value by allowing others to have unlimited access may be a breach of directors' legal responsibility to protect charitable assets.

(c) This Standard should be read together with Section A8, above.

Examples of Ethical Practice:

- Offering all donors an opportunity to have their names excluded from donor lists that are rented, exchanged or otherwise shared.

- Ensuring that list rental, exchange or sharing occurs only with a written agreement that describes how and under what circumstances the list may be used.

- Including one or more names and addresses in any rented, exchanged or shared list, that will enable the charity to detect whether the list is being used for unauthorized purposes.

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5. The charity's governing board will be informed at least annually of the number, type and disposition of complaints received from donors or prospective donors about matters that are addressed in this *Ethical Fundraising & Financial Accountability Code*.

Commentary:

Guidelines:

(a) The governing board of a charitable organization has a duty to be familiar with its fundraising programs, including the steps taken by the organization to monitor compliance with this *Code* and to address complaints that have arisen as a result of an actual or alleged violation of this *Code*.

(b) Fundraising activities affect the reputation of the charity and the value of its name. Directors have a duty to protect these intangible assets.

(c) This Standard should be read with Section A10, above.

C. Financial Accountability

1. The charity's financial affairs will be conducted in a responsible manner, consistent with the ethical obligations of stewardship and the legal requirements of provincial and federal regulators.

Commentary:

Guidelines:

(a) Charitable boards must act prudently in all matters concerning the financial management of the organization. They are guardians of the charity and its assets.

(b) Directors must ensure that proper accounts are maintained and that all entries in the organization's financial statements can be substantiated.

Examples of Ethical Practice:

- The governing board establishes an audit committee to oversee the organization's financial and control systems. Through its activities, the audit committee gives stakeholders greater assurance of forthright financial reporting and demonstrates that the board takes its duty to oversee the management of the organization seriously.

- Financial statements are closely reviewed by the governing board and, through the audit committee, particular attention is paid to the following:

  - the selection of and changes in accounting policies, particularly those that are controversial or for which there is no authoritative guidance;
  - methods used to account for unusual or particularly significant transactions;
  - issues on which management has made estimates or judgments that had a significant effect on the financial statement; and,
  - significant transactions with related parties (including management and entities controlled by such parties).

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2. All donations will be used to support the charity's objects, as registered with the Canada Customs and Revenue Agency.

Commentary:

Guidelines:

(a) Charitable organizations should make their objects and mission clearly known.

(b) Charitable boards have a duty to ensure that the organization remains true to its mission and objectives, and that its identity, programs and activities are not distorted or subverted by external or internal self-interest.

(c) If a charitable organization wishes to change its objects from those that are registered with the Canada Customs and Revenue Agency, it must first receive approval from CCRA to do so.

(d) A charitable organization may not give money or other resources to another organization to carry out activities outside of or not in support of its own objects.

Examples of Ethical Practice:

- Adhering to a fundraising policy that prohibits acceptance of donations that may impact or drive programming in a manner that is inconsistent with the organization's charitable objects.

Examples of Unethical Practice:

- Embarking on a fundraising program that presents the organization's objectives and mission falsely.

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3. All restricted or designated donations will be used for the purposes for which they are given. If necessary due to program or organizational changes, 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.

Commentary:

Guidelines:

(a) This Standard applies to restricted or designated donations that are subject to conditions or limitations imposed by the individual donor and to fundraising appeals made to the public at large for the support of specific programs or projects.

(b) Donors who make restricted or designated donations have a right to expect that their donations will be applied according to their specific directions.

(c) All statements made by a charitable organization regarding the use of a contribution should be honoured.

(d) Charitable organizations should have a plan in place to deal with:

- funds that cannot be applied to a specific project; and,
- surplus funds raised over and above the requirements of a given campaign.

These plans should be clearly communicated in all fundraising appeals.

(e) **Court approval may be required before a donation can be applied to another use or returned. It is prudent to obtain legal advice before proceeding in this area. This Standard should not be interpreted as authorizing organizations to act independently of the legal requirements of their jurisdiction or outside of the terms of the original gift agreement.**

(f) An accounting system that tracks designated donations should be developed.

(g) Contributions that are not subject to any restrictions imposed by the donor or by the terms of the fundraising appeal may be applied by the governing board in whatever manner it deems appropriate to achieve the organization's charitable purposes.

Examples of Ethical Practice:

- The governing board understands the nature and legal consequences of all donor restrictions and how such restrictions align with their duty to carry out the activities of the organization in accordance with its charitable objects.

- The fundraising appeal clearly states that surpluses from a public fundraising campaign for a specific project will be used to further the general charitable objects of the organization.

- The charitable organization consults with donors who have specified a use for their donated funds that subsequently cannot be met, to determine an alternate use that is in keeping with the donor's wishes and the organization's mission. Charitable organizations should be aware that, regardless of the donor's views, it may be necessary to apply to a court of superior jurisdiction for an administrative scheme setting out an acceptable use of the donated funds.

- The charitable organization reviews documentation on a regular basis to ensure that those responsible for administering gift funds continue to adhere to the donor's intentions.

Examples of Unethical Practice:

- The charitable organization accepts a gift for a specific programmatic use and subsequently eliminates the program but uses the funds for another program without obtaining the consent of the donor.

- The charitable organization uses funds remaining as a surplus after the restriction has been fulfilled without the consent of the donor or the court, as may be necessary.

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4. Annual financial reports will:

   - be factual and accurate in all material respects;

   - disclose:

     - the total amount of fundraising revenues (receipted and non-receipted);[3]

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[3] Total of amounts from lines 100, 102 and 113 of T3010 (Registered Charity Information Return, 2000.)

- the total amount of fundraising expenses (including salaries and overhead costs);[4]

- the total amount of donations that are receipted for income tax purposes (excluding bequests, endowed donations that cannot be expended for at least 10 years, and gifts from other charities);[5]

- the total amount of expenditures on charitable activities (including gifts to other charities);[6]

- identify government grants and contributions separately from other donations; and,

- be prepared in accordance with generally accepted accounting principles and standards established by the Canadian Institute of Chartered Accountants, in all material respects.

Commentary:

Guidelines:

(a) This standard deals with the public reporting of the financial position of a charitable organization. To ensure consistency and accuracy, financial statements should be prepared in accordance with GAAP in all material respects, as well as any other appropriate guidelines adopted by CICA for the type of charitable organization involved.

(b) The disclosures referred to in this standard may appear in a note to the financial statement.

(c) The requirement in this standard that financial statements be "factual and accurate in all material respects" is met where financial statements are demonstrably prepared in accordance with GAAP and any other appropriate guidelines adopted by CICA for the type of charitable organization involved.

(d) Charitable organizations have an obligation to ensure that their financial statements and annual reports are accessible, user-friendly, complete, understandable and truthful.

(e) Audited financial statements, prepared by a qualified, independent accountant, are preferable. However, the cost of so doing can be prohibitive for some organizations. In certain cases, an accountant's Review Engagement may be an adequate and less costly

[4] Amount from line 123 of T3010 (2000)

[5] Amount from line 906 of T3010 (2000)

[6] Total of amounts from lines 120 and 121 of T3010 (2000)

alternative to a full audit. In the case of quite small organizations, even a Review Engagement may be cost prohibitive, and engagement of an independent auditor is not mandatory. In any event, the charity must be able to satisfy CCRA that the financial statements accurately reflect the charity's circumstances. The *Code* should be interpreted to prefer *but not require* audited financial statements.[7]

(f) This Standard should be read with Section A3, above.

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5. No more will be spent on administration and fundraising than is required to ensure effective management and resource development. In any event, the charity will meet or exceed the Canada Customs and Revenue Agency's requirement for expenditures on charitable activities. (The *Income Tax Act* sets out a requirement that all registered charities spend 80% of their receipted donations from the previous taxation year – excluding bequests, endowed donations that cannot be expended for at least 10 years, and gifts from other charities – on charitable activities; in addition, charitable foundations are required every year to expend 4.5 of their assets in support of charitable programs.)

Commentary:

Guidelines:

(a) The purpose of this standard is to ensure that fundraising costs and administration costs are reasonable so that the greatest amount of the charity's resources can be devoted to its charitable programs. Appropriate fundraising costs will vary according to: the organization's size, age, popularity and reputation; access to donors; availability of volunteers; access to corporations; management expertise; financial success; management skill; and, the experience of its fundraising professionals. Several models have been developed to evaluate fundraising costs. These include: average cost per dollar raised; average cost per gift; percentage rate of return; average gift size; fundraising activity/methodology cost comparison; and, return on investment.[8]

(b) It is good practice to test your new fundraising efforts. To the extent possible, new fundraising programs should start with a modest investment on a trial basis.

(c) Charitable boards have a responsibility to oversee the way in which the costs of fundraising are determined and reported to donors and to the public. Governing boards should take an active role in approving and monitoring policies concerning:

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[7] The Canada Customs and Revenue Agency recommends: that charities file audited financial statements when their gross income from all sources exceeds $250,000; and, that the charity's treasurer sign any financial statements that have not been professionally audited.

[8] A detailed discussion of fundraising cost evaluation can be found in N. Palmer, *Funding For Charities* (Canada West Foundation, 1997) at 24-30. This paper can be obtained through the Canada West Foundation website at www.cwf.ca.

- their organization's fundraising activities; and,
- the disclosure of the nature and amount of fundraising expenses.

(d) A charitable organization's <u>administrative and fundraising costs</u> shall be kept to the minimum necessary to meet its objects, as registered with the Canada Customs and Revenue Agency. Allocations of expenditures to administration, fundraising, and program services shall reflect the organization's purposes and actual activities, and shall conform to GAAP and any other appropriate guidelines adopted by CICA for the type of charitable organization involved.

(e) In some cases, charities, owing to exceptional circumstances, will not meet regulatory requirements governing expenditures. Where this happens unintentionally, CCRA may grant the charity a year's grace to come into compliance. A charity which has been granted, or has made a *bona fide* application to be granted, a grace period will be considered to be in compliance with the *Code* notwithstanding that it has not met the target.

Examples of Ethical Practice:

- Allocating the cost of mixed activities, which include fundraising and some other form of communications, on a basis that reflects the true purpose and intent of the expenditure.
- Allocating a portion of management, administrative and other <u>overhead</u> costs to charitable activities only where there is a sound rationale for doing so.

Examples of Unethical Practice:

- Understating the actual amount spent on fundraising by reporting <u>fundraising costs</u> as "charitable activities" or "public education."

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6. The cost-effectiveness of the charity's fundraising program will be reviewed regularly by the governing board.

Commentary:

Guidelines:

(a) Charitable boards, as part of their governance activities, have an obligation to measure the costs and benefits of their organization's fundraising program on a regular basis and to make any changes necessary to ensure that the maximum amount possible is being applied to charitable activities, consistent with the long-term interests of the charity and its beneficiaries.

Glossary

Administration (costs): refers to expenses related to activities that are indispensable to the conduct of the organization's primary objects and corporate existence, including the overall management and administration of the organization, but are not directly attributable to a program. Administrative expenses include, but are not limited to:

- salaries and expenses of managers and their support staff. (Staff salaries and expenses can be allocated between other programs and fundraising, as appropriate);
- cost of board meetings;
- cost of preparing and distributing annual reports;
- cost of accounting, auditing, personnel and other administrative services;
- cost of legal services delivered on the organization's behalf; and,
- supplies, equipment and occupancy costs (*e.g.*, rent, insurance, utilities) for administrative offices.

Annual Financial Report: See Financial Statement.

Annual Report: a yearly report of the financial and program status of a charitable organization. An Annual Report should provide a simple and accurate picture of the organization's mission, accomplishments, allocation of resources and sources of income. For some charities, an this may consist of reports (*e.g.*, from the Board Chair, the Executive Director, and the Treasurer) that are provided to members at the organization's annual general meeting.

"… as consistent as possible:" as close as possible to the donor's original intent, as long as the proposed use of funds is an approved charitable purpose within the organization's charitable objects. Also **cy-près comme possible** or "**cy-près**."

Board of Directors: See Governing Board.

Board of Trustees: See Governing Board.

Bonus: See Performance-Based Compensation

Commission: a payment based the dollar value of a transaction. In the fundraising context, **commission-based compensation** refers to remuneration paid to a fundraising company or hired solicitor based on a percentage of monies raised rather than a flat fee. Also **percentage-based compensation**.

Conflict of Interest: refers to situations where a volunteer, employee or hired solicitor has competing professional or personal obligations or interests which make it difficult to act in the best interests of the charitable organization or which they might be prompted to prefer over the interests of the charitable organization.

Contributor: See Donor.

Disposition: the settlement or resolution of a matter.

Donor: a person, corporation, or foundation that makes an eligible gift. Also **contributor**.

Donor Records: refers to personal information collected by a charitable organization regarding donors or prospects and may be in printed or electronic form and includes anecdotal knowledge.

Effective Management and Resource Development: requires charitable organizations to spend the minimum amount possible on overall management, administration and fundraising, in order to ensure that most of the organization's tax-assisted donations are used to achieve its charitable objects, in a manner consistent with the long-term interests of the organization.

Fair Market Value: the legal standard for determining the value of non-cash gifts. The value of the gift is the price at which it would change hands between a willing buyer and a willing seller, where neither is under any compulsion to buy or sell and both have reasonable knowledge of the relevant facts.

Financial Report: See Financial Statement.

Financial Statement: a statement of the financial results of a charitable organization, prepared in compliance with Generally Accepted Accounting Principles ("GAAP") and any other appropriate guidelines adopted by the Canadian Institute of Chartered Accountants ("CICA") for the type of charitable organization involved. At minimum, financial statements normally consist of:

- a statement of receipts and disbursements (revenues and expenses),
- a statement of assets and liabilities,
- the auditor's or treasurer's report, explanatory notes and any supplementary schedules to the financial statement; and, where it exists,
- the audit opinion of the charity's accountant.

Financial statements show the different sources of a charity's income and how the organization has spent its money for a specified fiscal period. Also **financial report**, **annual financial report**.

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 for identifying a donor.

Fundraising (costs): refers to the total disbursements a charitable organization makes to raise funds, for example:

- expenses associated with conducting fundraising activities, including salaries and <u>overhead</u> costs, promotional materials, campaign supplies, electronic data processing, maintaining mailing lists, and year-round office expenses directly related to fundraising and the issuance of charitable receipts;

- expenses associated with promoting the charity and its activities to the community primarily for fundraising purposes;
- fees the organization pays to outside fundraising consultants or hired solicitors or agencies; and,
- postage costs for direct-mail canvassing.

Fundraising Program: includes all activities undertaken by an organization to induce donors and prospects to contribute money or gifts-in-kind to the realization of its mission.

Gift-in-Kind: a contribution of equipment, supplies or other tangible resource, as distinguished from a monetary donation. As defined by the Canada Customs and Revenue Agency, a gift-in-kind includes such things as capital property (including depreciable capital property) and personal use property (including listed personal property), but not a gift of services. Also **non-monetary eligible gifts**.

Governing Board: the elected members or directors of a charitable organization with special responsibility for the management and supervision of the affairs of the organization, in accordance with the organization's bylaws. Also **board of directors, board of trustees**.

Harassment or Undue Pressure: in fundraising, refers to a course of conduct or form of persuasion intended to manipulate or overpower deliberate and thoughtful decision-making by the donor or potential donor so that a contribution cannot be said to be freely given.

Hired Solicitor: any person who contracts to engage, or is employed or contracted by a fundraising or other fee-for-service business for gain to engage, in soliciting or otherwise procuring money or other property for charitable purposes.

Non-Monetary Eligible Gifts: See Gift-In-Kind.

Overhead: as used in a fundraising context, refers to necessary campaign operating expenses (such as utilities, insurance, and rent).

Percentage-Based Compensation: See Commission.

Performance-Based Compensation: additional compensation paid as a result of superior performance, beyond the agreed-upon requirements or scope of the position. Also **bonus**.

"Restricted or Designated Donations:" refers to a gift to a charitable organization which is subject to restrictions, conditions or other limitations that constrain how the gift can be used. Restrictions may be imposed by the donor or may arise as a result of a project-specific fundraising appeal.

Review Engagement: preparation and review of financial statements by a Certified General Accountant to ascertain whether the statements are plausible – that is, worthy of belief.