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ETHICAL CODE HANDBOOK

Updated in February 2011

Imagine Canada Ethical Code

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The Ethical Code Program is generously supported by:

The Great-West Life Assurance Company · London Life · Canada Life

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Hospitals of Regina Foundation

THE **ETHICAL** CODE PROGRAM

The *Ethical Fundraising and Financial Accountability Code* (Ethical Code) sets standards for charities in the areas of fundraising and financial reporting practices. It was developed by Imagine Canada in consultation with charities across the country. The current version was released in the fall of 2007 and revised in 2008 and 2011. The Ethical Code is reviewed annually to ensure that it remains timely and relevant.

Any charity may use the Ethical Code to improve and monitor its fundraising and financial reporting practices.

Charities wishing to make a public commitment to ethical fundraising and financial accountability may apply to join the Ethical Code Program. Program participants are authorized to use a trustmark that signals to donors that they comply with the Code's standards.

HOW THE PROGRAM WORKS

To join the Ethical Code Program, charities must complete an application form and submit supporting documentation and the appropriate fee. More details about the application requirements can be found in the Ethical Code Program Application.

Compliance with the Ethical Code is monitored through a complaints-based process. Members of the public, donors and other stakeholders may lodge a complaint concerning any Program participant. Complainants will be encouraged to discuss their concerns directly with the charity involved. If the situation cannot be resolved in this way, the Ethical Code Committee will receive and review the complaint and deliver sanctions if necessary.

The Ethical Code Committee is an arms-length body comprised of experts in matters related to fundraising and financial reporting. In addition to reviewing complaints, the Committee can informally review practices and answer questions related to the Ethical Code.

The full process to review and manage complaints is laid out in the *Protocol for Complaints* that can be found on the Ethical Code website (www.imaginecanada.ca/en/ethicalcode).

PROGRAM REQUIREMENTS

ANNUAL REPORTING PROCESS

Each year, participants are required to submit updated financial statements and complete a short report outlining:

- the number and types of complaints received related to the Ethical Code,
- any concerns raised by regulators over the previous year, and
- confirmation by the Executive Director/CEO that the Code is still in use and that new staff and board members have been provided with a copy.

Canadian Federation of Humane Societies

BIENNIAL RENEWAL

Every two years, participants must renew their participation in the Program by:

- passing a new board resolution renewing their commitment to the Code,
- submitting updated financial statements, T3010 filing, and annual report,
- signing a new licence agreement, and
- submitting the biennial fee.

YWCA Vancouver

PROGRAM RESOURCES

Imagine Canada has developed a number of resources designed to help charities implement the Ethical Code. Resources include an *Interpretation Guide* with guidelines and definitions. The Guide, which will continue to be updated, can be found on page 10.

Other resources available online include a *Guide to Giving* for donors, annual progress reports on the Program, annual supplements in *Maclean's* and a template to assist with presenting the Ethical Code to boards of directors or senior staff. Ethical Code participants may also be interested in Charity Tax Tools, a website (charitytax.imaginecanada.ca) that helps charities understand Canada Revenue Agency requirements. Visit the Ethical Code website (www.imaginecanada.ca/en/ethicalcode) for these resources as well as the most up-to-date list of Program participants.

ETHICAL FUNDRAISING AND FINANCIAL ACCOUNTABILITY CODE

The registered charity undertakes to adhere to the standards set out in the Imagine Canada *Ethical Fundraising and Financial Accountability Code* in its treatment of donors and the public, its fundraising practices and its financial transparency, and to be accountable through its Board of Directors for doing so.

Approved by the Imagine Canada Board of Directors in September 2008; Updated in February 2011.

A DONOR POLICIES AND PUBLIC REPRESENTATIONS

1 The Charity shall maintain its charitable status.

2 The charity shall prepare and issue official Income Tax receipts for monetary gifts and for gifts-in-kind pursuant to any policy established and published on minimum amounts to be receipted and in compliance with all regulatory requirements. The charity shall acknowledge in writing contributions not entitled to be officially receipted, subject to any policy established and published on minimum amounts to be acknowledged.

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

4 The charity must demonstrate the utmost transparency and accountability through accurate and accessible disclosure of information in a readily accessible location on its website. If the charity does not have a website, this information shall be included in readily accessible public materials or documents. Information that should be disclosed includes, but is not limited to the following:

- the charity's most recent three years of annual reports and financial statements including notes as approved by the governing board;
- the charity's registration number (BN) as assigned by the Canada Revenue Agency (CRA);

- any information contained in the public portion of the charity's most recent Charity Information Return (form T3010) as submitted to CRA;
- a copy of the Charity's Investment Policy relating to its investable assets, if applicable (see C8);
- a list of the names of the members of the charity's governing board; and
- a copy of this *Ethical Fundraising and Financial Accountability Code.*

5 The charity or those fundraising on its behalf shall disclose, upon request, whether an individual or entity soliciting contributions is a volunteer, an employee or a contracted third party.

6 The charity shall not make claims that cannot be upheld or are misleading.

7 The charity shall encourage donors to seek independent advice if the proposed gift is a Planned Gift and/or the charity has any reason to believe that the proposed gift might significantly affect the donor's financial position, taxable income, or relationship with other family members.

8 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.

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

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

11 Solicitations by or on behalf of the charity shall treat donors and prospective donors with respect. Every effort shall be made to honour their requests to:
- limit the frequency of solicitations;
- not be solicited by telephone or other technology;
- receive printed material concerning the charity;
- discontinue solicitations where it is indicated they are unwanted or a nuisance.

12 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.

13 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.

14 The charity shall post its complaints process and related contact information in a readily accessible location on its website. If the charity does not have a website, this information shall be included in readily accessible public materials or documents.

15 The charity shall respond promptly to a complaint by a donor or prospective donor about any matter that is addressed in this *Ethical Fundraising and Financial Accountability Code.*

B FUNDRAISING PRACTICES

1 The charity's fundraising affairs shall be conducted in a responsible manner, consistent with the ethical obligations of stewardship and all applicable law.

2 Fundraising solicitations on behalf of the charity shall:

- be truthful; and
- accurately describe the charity's activities and the intended use of donated funds.

3 The charity shall not exploit its beneficiaries. It shall be sensitive in describing those it serves (whether using graphics, images or text) and fairly represent their needs and how these needs will be addressed.

Calgary Opera

4 When the charity conducts online solicitations its practices shall be consistent with or exceed the provisions of the *Canadian Code of Practice for Consumer Protection in Electronic Commerce*, which is downloadable at: http://www.cmcweb.ca/epic/site/cmc-cmc.nsf/vwapj/EcommPrinciples2003_e.pdf/$FILE/EcommPrinciples2003_e.pdf

5 When the charity conducts face-to-face solicitations, including but not limited to door-to-door campaigns or street-side fundraising, its practices shall include measures to:

- provide verification of the affiliation of the person representing the charity; and,
- secure and safeguard any confidential information, including credit card information, provided by donors.

6 Volunteers, employees and third party consultants/solicitors who solicit or receive funds on behalf of the charity shall:

- adhere to the provisions of this *Ethical Fundraising and 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 harassment or undue pressure, or who states that he does not wish to be solicited;
- disclose immediately to the charity any actual or apparent conflict of interest or loyalty; and
- not accept donations for purposes that are inconsistent with the charity's objects or mission.

7 The charity shall provide, upon request, its best available information on the gross revenue, net proceeds and costs of any fundraising activity (including the fundraising costs categorized as education and/or public awareness) it undertakes.

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

9 Charities that undertake cause-related marketing in collaboration with a third party shall disclose how the charity benefits from the sale of products or services and the minimum or maximum amounts payable under the arrangement. If no minimum amount is specified, the charity should disclose this.

10 The charity shall not sell its donor list. If applicable, any rental, exchange or other sharing of the charity's donor list shall 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 shall be for a specified period of time and a specified purpose and must be limited to what is allowed under Federal and/or Provincial privacy legislations.

11 The charity's governing board shall 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 and Financial Accountability Code.*

Save the Children Canada

C FINANCIAL PRACTICE AND TRANSPARENCY

1. The charity's financial affairs shall be conducted in a responsible manner, consistent with the ethical obligations of stewardship and all applicable law.

2. All donations shall be used to support the charity's objects, as registered with CRA.

3. The cost-effectiveness of the charity's fundraising programs shall be reviewed regularly by the governing board. No more will be spent on administration and fundraising than is required to ensure effective management and resource development.

4. The charity shall accurately disclose all costs associated with its fundraising activity.

5. The charity shall make the following information publicly available (e.g., on its website, in its annual report, in its financial statements) within 6 months of its year end:
   - total fundraising revenues;
   - total fundraising expenses;
   - total expenditures on charitable activities/programming.

6. Charities with over $1 million in annual revenue must have their financial statements audited by an independent licensed public accountant. Charities with annual revenue between $250,000 and $1 million may have a review engagement unless required by their governing legislation to have an audit.

7. If the charity's investable assets surpass $1,000,000, an Investment Policy shall be established setting out asset allocation, procedures for investment decisions, and asset protection issues.

INTERPRETATION GUIDE

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 contactors 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.

Habitat for Humanity Canada

ABOUT IMAGINE CANADA

Imagine Canada is a national charitable organization whose cause is Canada's charities and nonprofits. We strengthen the sector's collective voice, act as a forum and meeting place and create an enabling environment in which organizations contribute to building stronger communities.

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To join the Ethical Code program or for more information visit our website at **www.imaginecanada.ca/en/ethicalcode**, call **(416) 597-2293, ext. 229** or email **code@imaginecanada.ca**.

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