

ASO Advocacy: Speaking Out, Safely

Executive Director Summit
Pacific AIDS Network
22 October 2014

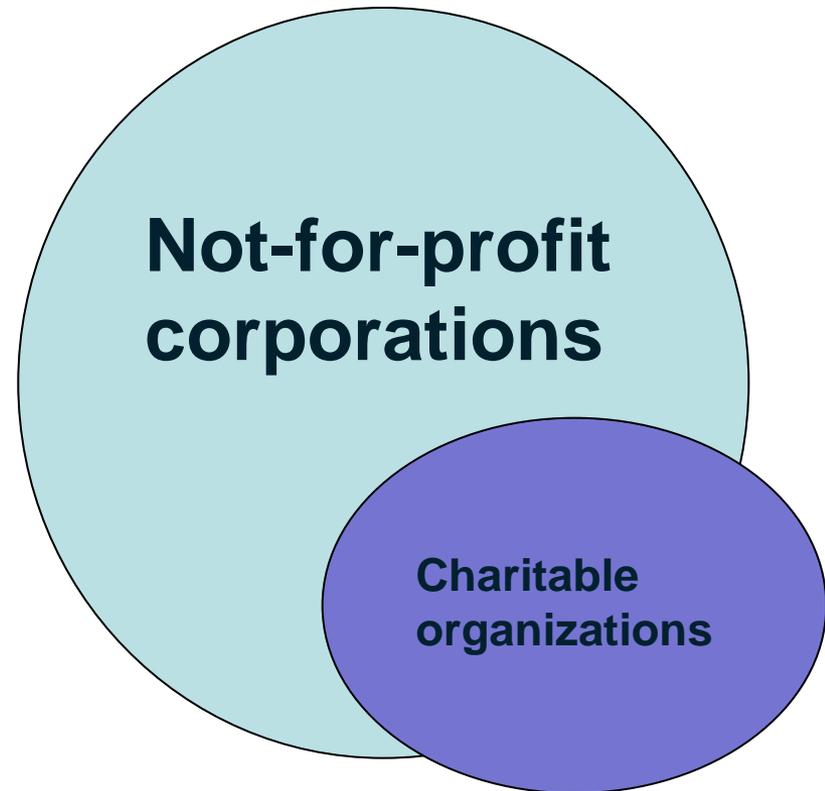
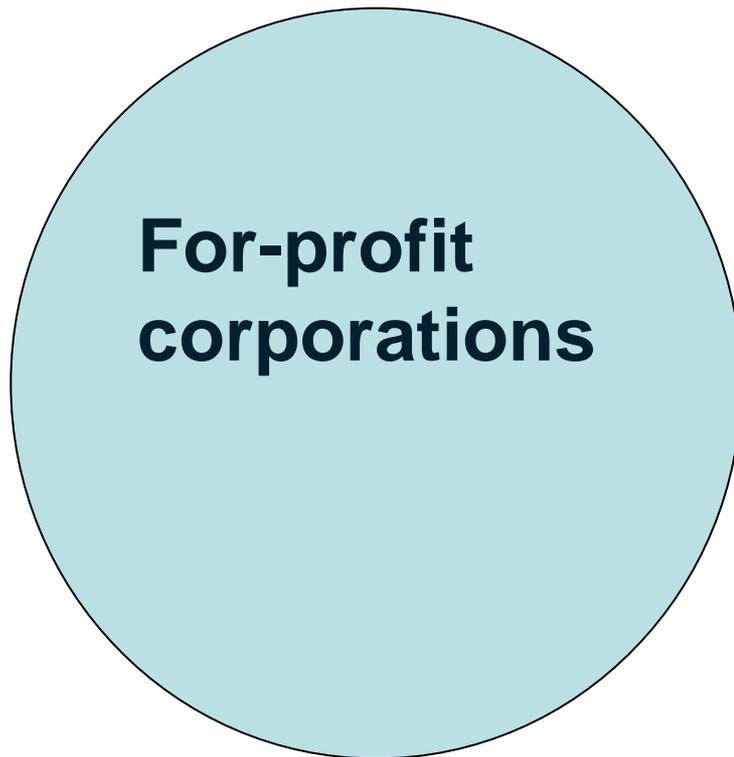


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Focus on charities



Charitable purposes

- **Charities cannot be formed with political activities as their purpose:**
 - Support or further the interest of a particular political party or candidate
 - Retain, oppose, or change the law, policy or decision of any level of government in Canada or foreign country
- **Organization's purposes must be exclusively charitable (as defined in law):**
 - relief of poverty
 - advancement of education
 - advancement of religion
 - certain other purposes beneficial to the community in a way the law regards as charitable.

Charities engaged in policy process

“The Government of Canada recognizes the need to engage the voluntary sector in open, informed and sustained dialogue in order that the sector may contribute its experience, expertise, knowledge and ideas in developing better public policies and in the design and delivery of programs.”

- Code of Good Practice on Policy Dialogue (2001), pursuant to Accord Between the Government of Canada and the Voluntary Sector

Charities engaged in policy process

Charities must present info on public policy issues in a way that is:

- informative;
- accurate; and
- “well-reasoned”

(i.e., based on factual information that is methodically, objective, fully and fairly analyzed... including addressing facts and arguments to contrary).

Charities engaged in policy process

Charities may choose to advance their charitable purposes by taking part in political activities if:

- (1) it devotes “**substantially all**” of its resources to charitable activities;
- (2) its political activities are “**ancillary and incidental**” to its charitable purposes; AND
- (3) its political activities do not include the direct or indirect support of, or opposition to, any **political** party or candidate for public office.

Charities engaged in policy process

In other words...

1. Charity must **not devote more than 10%** of its resources in a year to “political” activities (general rule)
2. Those activities must be **connected and subordinate** to its charitable activities
3. Charity can never engage in any **partisan** political activities

3 kinds of activities

Charitable activities

- Activities advancing its charitable purposes
- Communications and other advocacy activities that are “charitable” rather than “political” (see below)

Political activities (permitted)

- Advocacy activities that are (1) non-partisan and (2) “connected and subordinate” to charity’s purposes

Prohibited activities

- Illegal activities
- Partisan political activities

“Charitable” activities

- Many communications and other advocacy activities can be “charitable” (i.e., included within your 90% and not count as part of your 10% allowable “political” activities)
- **Examples:**
 - Public awareness campaign using materials that are “well-reasoned” and are not primarily emotive
 - Provide means for getting more background info (especially in short/time-limited format)
 - **Well-reasoned communication to an elected rep or public official (whether by invitation or not), even if advocating for legal/policy change**
 - Releasing the entire text of such a representation to the public AND without an explicit call to action

“Charitable” activities

- **Producing educational materials without a call for political action**
- **Publishing and distributing your research in various ways to various audiences, including to media and via social media (without a call to political action)**
- **Distributing the research to all election candidates**
- **Meetings with MPs**
- **Presenting (orally or in writing) a well-reasoned position to legislative committee or body (even if there is a call by the organization for a legal/policy change), or distributing it to all members of that legislative body**
- **Giving media interviews**
- **Participating in a policy development working group or being on a government advisory panel**
- **Litigation**
- **Submissions to UN with call to hold govt accountable under treaties**

Political activities (non-partisan, connected)

CRA presumes activity is political if it does any of the following

- **It explicitly communicates a call to political action (e.g., “contact your MP and urge them to support/oppose/change X law or policy”)**
- **It explicitly communicates to the public that law/policy/decision should be retained, opposed or changed**
- **It explicitly indicates in materials (internal or external) that intention is to incite or organize pressure on elected rep or public official to retain, oppose or change a law/policy/decision**

Political activities (non-partisan, connected)

- **Buying media space (e.g., advertisement) to pressure government**
- **Organizing a march, rally or other demonstration**
- **Organizing a conference to support your organization's opinion**
- **Hiring a communications person to arrange a media campaign to pressure government**
- **Mail (or other) campaign urging supporters to contact the government**
- **Questionnaire on the issue to candidates/parties (must be to all of them)**

Partisan political activity

- **Organization can promote a policy that is also supported by a political party or candidate for public office, but CANNOT directly or indirectly support the party or candidate**
- **Therefore, charity can communicate its position as long as:**
 - you don't explicitly connect your views to any party or candidate [e.g. must identify how all voted, don't single out voting pattern of one]
 - the issue is connected to your charitable purposes
 - your position is well-reasoned
 - you don't make public awareness campaigns your primary activity

Partisan political activity

Examples of prohibited partisan political activity:

- **Using your newsletter (website, etc.) to support a candidate or party for election**
- **Distributing leaflets highlighting that government does not support your organization's goals... BUT it's acceptable if the material shows position of all MPs (e.g., voting on a bill)**
- **Hosting event or providing goods or services to workers, volunteers or members of a particular party**
- **Inviting candidates to speak at *separate* events**

Key conclusions

- You can do advocacy on issues connected to your charitable purposes
- Your advocacy must be “well-reasoned”
- You can spend up to 10% of your total resources on political activities
- But many advocacy activities can be considered charitable, rather than political, and therefore don’t need to be included in your allowable 10%
- Never engage in partisan political activity
- Keep good records of expenditures on various activities



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NB: This presentation does not constitute legal advice.

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