



Submission to the Standing Committee on Human Resources, Skills and Social Development and the Status of People with Disabilities for its Study on the Canada Summer Jobs Program

October 25, 2023

Introduction

The Evangelical Fellowship of Canada (EFC) is the national association of evangelical Christians in Canada. Established in 1964, the EFC provides a forum for collaboration and engagement among the roughly 1.7 million evangelicals who are part of its constituency. The EFC affiliates include 47 denominations comprised of over 7000 churches, 35 post-secondary educational institutions, and 75 ministry organizations. The EFC endeavours to engage in public policy issues constructively and collaboratively, seeking the good of Canadian society.

We are grateful for the opportunity to provide feedback to the committee in its study of the Canada Summer Jobs program.

Thousands of churches and organizations across Canada are religious charities which operate legally under applicable laws. In carrying out their work, they benefit the communities in which they are located and our country as a whole.

Such charities foster vibrant social networks, spark volunteerism and foster community resiliency; engaging in poverty alleviation and caring for those who are vulnerable, among other things. Although these positive ends are experienced by many in the community regardless of faith, they are offered out of a religious context, with a religious ethos and rationale that animates these charitable activities.

Canada is a multicultural, multi-faith society, with a diversity of beliefs and opinions. Our diversity means it is inevitable that we will disagree, sometimes deeply. The right to believe, to express oneself and to disagree on issues is foundational to a true and vibrant democracy. We must respect and promote these fundamental freedoms.

Canada has a diverse private and charitable sector that is permitted to hold opinions and views that differ from the government. Participation in government programs like the Canada Summer Jobs program (CSJ) must not depend on alignment with the policy of any particular government.

We have heard from churches and faith-based organizations that have in good faith applied for the CSJ. They appreciate the support of the CSJ grant in helping them to hire youth and serve their communities. The Canada Summer Jobs program is a welcome contributor to the good of communities across Canada. Many are receiving grants and the CSJ program continues to be vital to carrying out their community work. For these churches and organizations, the impact of the CSJ is very positive.

The EFC has itself benefited previously from CSJ grants, which allowed us to provide a positive and mutually beneficial summer work experience for students.

However, the perception of some faith-based groups is that their applications are being targeted for review because of their statements of faith or belief. This sidelines them from the application process while the review is carried out and grants are distributed to other applicants. For some, once the review determines that they do not act contrary to applicable laws, they return to the process when most grants have been distributed. Other groups are then subject to excessive scrutiny and/or denial of grants.

We are concerned that, contrary to *Charter* protections of conscience, religion, thought, belief, opinion and expression, some reviewers within the CSJ program may be singling out faith-based groups solely on the basis of their beliefs and values. We are very concerned that participation in the public square with respect to government programs is being subject to screening on the basis of beliefs.

It is important that the CSJ program follow the principles of procedural fairness and consistency. We urge this committee to carefully consider the program's compliance with *Charter* protections of conscience, religion, thought, belief, opinion and expression.

It is true that no organization has a right to funding or to a Canada Summer Jobs grant. However, if the government is going to offer grants, it must offer them on a level playing field and not use ideological screening to determine who is eligible to apply for funding.

The 2018 attestation

The EFC, along with many faith-based organizations, civil liberties groups and others, objected to the requirement in the 2018 CSJ application that in order to access government funds to hire summer students, organizations had to attest that their

core mandate respects individual human rights in Canada, including the values underlying the *Canadian Charter of Rights and Freedoms* as well as other rights. These include reproductive rights and the right to be free from discrimination on the basis of sex, religion, race, national or ethnic origin, colour, mental or physical disability or sexual orientation, or gender identity or expression.

There were significant numbers of Christian churches, ministries and employers who did not feel they could, in good conscience, sign an attestation that required them to respect undefined values and “other rights,” including access to abortion.

Our primary concern with the 2018 attestation was that it was, in effect, a values test. The EFC, along with other faith-based organizations, has said consistently that the ability to participate in a government program must not be limited on the basis of the religious beliefs of the applicant.

At the time, the EFC argued that it is wholly inappropriate, in a free and democratic society, for a government to require citizens or private organizations to attest to particular values in order to receive a public benefit.

The 2018 attestation was widely criticized and recognized as problematic. In meetings and conversations with then-Minister Hajdu, other government officials and MPs, the EFC recommended that the government replace the attestation with wording that indicated employers would comply with applicable human rights and labour legislation, rather than requiring respect for unenumerated rights and values.

We appreciated the opportunity to dialogue on the attestation, and were pleased that the problematic part of the attestation was subsequently removed from the CSJ application.

Concerns about current CSJ program

With the changes introduced in the 2019 program, we had hoped that, while there would still be restrictions on the kinds of jobs or activities that could be funded under the program, there would no longer be screening on the basis of values or beliefs in the application process.

However, we are now concerned that the values screening has moved behind closed doors.

The review process involves a case-by-case assessment of applications that can be subjective, arbitrary, inconsistent, unpredictable, lacking in transparency and which, in some cases, seems to involve ideological screening. We’ve heard from enough faith-based groups that we are concerned these are not just isolated incidents.

Reviews or findings of ineligibility

One of the patterns we have noted based on feedback from our affiliates is that some Service Canada employees are flagging some faith-based groups’ applications for review or deeming them ineligible for CSJ grants because of the following requirement:

Project or job activities that restrict access to programs, services, or employment, or otherwise discriminate, contrary to applicable laws, on the basis of prohibited grounds, including sex, genetic characteristics, religion, race, national or ethnic origin, colour, mental or physical disability, sexual orientation, or gender identity or expression.

Note the wording of “contrary to applicable laws.” How does Service Canada determine whether an applicant is acting contrary to applicable laws?

In all Canadian jurisdictions, human rights codes provide exemptions for bona fide occupational requirements which, in the case of religious charities, are necessary to maintain their religious identity.

The Treasury Board describes a bona fide occupational requirement in this way:

The law recognizes that, in certain situations, a limitation on individual rights may be reasonable and justifiable. Discrimination or exclusion may be allowed if an employer can show that a discriminatory requirement of a job is essential for performing that job. For example, to perform the job of driving a truck safely, persons employed as drivers must meet vision standards and have an appropriate driver 's license. A legally blind person would be legitimately excluded from a position as a truck driver since he/she cannot meet these two bona fide occupational requirements. The onus is on the employer to prove a BFOR if the complainant shows a prima facie case of discrimination.ⁱ

The Ontario Human Rights Commission (OHRC) describes the test for establishing a bona fide occupational requirement. The OHRC sets out that when a human rights complaint alleging discrimination is filed, the respondent must establish on a balance of probabilities that the requirement is rationally connected to the job, was adopted in good faith and is reasonably necessary to accomplish the work-related purpose.ⁱⁱ

When a complaint of discrimination on a prohibited ground of discrimination is made to a human rights commission, it triggers a process. The commission will mediate, investigate, conciliate and make decisions.

The Service Canada review process with respect to the CSJ program isn't triggered by a complaint. When they assess an applicant, they effectively engage in a legal assessment carried out by staff in a fairly opaque process.

There is little transparency or consistency. We see that in this process, sometimes groups are being flagged because of their beliefs, not their actions, and pre-emptively investigated.

We wonder what training Service Canada staff receive in order to evaluate bona fide occupational requirements – assuming those are the applicable laws that are being referenced. Assessing complex legal concepts isn't the same as checking that an employer has provided standard WHMIS training on workplace hazards.

We submit that it isn't the place of Service Canada staff to adjudicate the human rights code.

Flagged for review on the basis of beliefs

At a town hall in Winnipeg, in the midst of the 2018 attestation debate, Prime Minister Justin Trudeau said no religious group is going to be barred from Canada's summer jobs on the basis of its beliefs.

Yet Service Canada letters to faith-based applicants who have been flagged for review refer to their statements of faith or belief. This seems to presume that merely holding these religious beliefs is being considered by some Service Canada employees to be contrary to applicable law.

Some faith-based groups have been asked to provide their statements of faith and to explain their religious doctrine.

Eligibility should be based on an organization's practices and actions in compliance with applicable laws and not on the beliefs or values of the applicant organization.

We have reports that some reviews are based on out-of-date information/policies, rather than assessment of the applicants' current policies.

Some reviews point to incidents related to other organizations within an umbrella group or larger association. Flagging a church for review or denying their request due to an incident in another church within the denomination seems unjust. Imagine an incident of abuse at one YMCA or Scouts camp leading to separate chapters being reviewed or denied.

Excessive scrutiny

For groups who have been flagged on the basis of their beliefs or religious associations, some applicants also describe being subject to excessive scrutiny. They said it was as if Service Canada staff were looking for reasons to review or deny their application.

In one case, a CSJ applicant involved in providing summer camp to hundreds of children was informed of a Google review in which a parent complained that their child, a camper, got a sunburn at day camp. This triggered a Service Canada request for proof of workplace safety for staff.

An applicant organization had a faith-based organization's logo on their website. The faith-based website was combed for its statement of faith and job postings by its satellite groups. These were raised as matters requiring review and explanation by the applicant.

Conclusion

Canada Summer Jobs is a vital program that benefits many Canadians – the youth who are employed, the organizations that hire them and the communities they serve. Many faith-based organizations participate in the CSJ program and describe it as a welcome program that helps them serve their communities.

At the same time, it is clear that there are significant problems with the program that must be addressed.

We ask that the committee recommend the CSJ program follow the principles of transparency, procedural fairness and consistency. We ask that the committee recommend a careful consideration of the program's compliance with *Charter* protections of conscience, religion, thought, belief, opinion and expression. We ask that applicants be considered on the basis of their activities and actions, and not be screened or excluded on the basis of beliefs.

ⁱ <https://www.tbs-sct.canada.ca/ee/publications/inclusive/wdap-aopma-tbl05-eng.asp>

ⁱⁱ <https://www.ohrc.on.ca/en/iv-human-rights-issues-all-stages-employment/2-setting-job-requirements>