
To Apply or Not to Apply for Canada Summer Jobs Funding?

Barry W. Bussey | Jan. 3, 2019 |



This entry is part 24 of 24 in the series [Canada Summer Jobs](#).

This article will review why 2018 was so offensive; explain what the government did differently for 2019; highlight the unanswered questions the government has yet to clarify; and then, finally, suggest a way forward for Christian charities in the valley of decision on whether to apply.

Christian charities in Canada now face another decision involving the Canada Summer Jobs program - whether to apply for funding in 2019. There is good reason to be hesitant. The saying, “once bitten, twice as shy,” comes to mind. 2018 saw the federal government ignore the concerns of Christians who could not in clear conscience sign on to the government’s attestation requirement - and that experience still resonates with many. The 2019 modifications do appear to be an improvement over last year’s application, but we must be vigilant to ensure the rights of all Canadians are protected.

Why 2018 Off

In 2018 the federal government implemented a new requirement that CSJ applicants had to attest to the government’s worldview. The controversial wording stated:

“Both the job and my organization’s core mandate respect 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.”

As I noted in a [series of blog posts and editorials](#), the attestation was problematic for a variety of reasons, including the ambiguity of so-called “*Charter* values.” What was particularly offensive was that employers had to agree with the government’s claim that there exists a “right to access safe and legal abortion.”

First, although abortion was decriminalized in 1988, there is no such constitutional right. Of course, that could change, given the activist nature of the Supreme Court of Canada in recent decades - but, to date, the Court has not declared a positive, unrestricted right to abortion. The current government ignores that fact and wishes the law to be what it is not. “You can have anything in life,” said Peter Pan, “if you will sacrifice everything else for it.”

Second, the government’s ideological commitment to abortion and other issues involving sexuality was imposed, without exemption or accommodation, on the CSJ applicants. This totalitarian approach was roundly rejected by religious and secular groups across the country. Yet the government refused to back down; even though it produced “supplementary”

material, it did not change the attestation. The net result was that over 1,500 charities refused to participate in the 2018 CSJ program.

The 2019 Compromise

It is not lost on anyone that 2019 is an election year. The government decided that things had to change, if for no other reason than political expediency. For the 2019 CSJ program, it removed the offensive provision of 2018 and put in its place this statement for the attestation:

“Any funding under the Canada Summer Jobs program will not be used to undermine or restrict the exercise of rights legally protected in Canada.”

To “undermine or restrict” abortion means, according to the government:

“to weaken or limit a woman’s ability to access sexual and reproductive health services. The Government of Canada defines sexual and reproductive health services as including comprehensive sexuality education, family planning, prevention and response to gender-based violence, safe and legal abortion, and post-abortion care.”

What are we to make of the words “to weaken or limit” the rights in question? If an organisation speaks out against abortion, would that be deemed by the government as “weakening” “a woman’s ability to access sexual and reproductive health?” We do not know. However, it must be said that no citizen can “weaken or limit” legally protected rights in Canada. We have no authority or power to do so. Governments can; citizens cannot. So, why is this in the CSJ 2019 materials?

The Way Forward

Given that we live in a country ruled by law, we must assume that the Government of Canada will act in accordance with the law. That includes the *Charter* freedoms of conscience and religion, and the rights contained in human rights legislation. It should hardly be necessary to point out these facts. But we cannot hide from the political reality that the government is not at all sympathetic to communities that adhere to traditional pro-life and sexual ethics. We know as much from our CSJ experience in 2018, and from the language as noted above for the 2019 CSJ program. It is, nevertheless, reasonable to conclude that government will respect the right of Canadians to hold diverse opinions and organize life differently from the government, because that is the law.

Human Rights Exemption

The 2019 CSJ application asks the employer to describe how they are “providing a safe, inclusive, and healthy work environment free of harassment and discrimination (eg. hiring practices, policies, guidelines).”

This may require legal advice as to how you ought to fill in this section. It would appear that the government is still seeking to impose its ideology on the process. The government is trying to determine whether there is, in their view, discrimination against those who do not agree with the religious beliefs and practices of a religious charity. Special care must be taken in filling this out to ensure there is nothing to “trigger” the ideological concerns of government bureaucrats. At the same time, applicants must remain honest and accurate - it would not be advisable to deliberately or inadvertently mislead the

government or misuse funds for a job that does not match the description given.

Human rights legislation across Canada allows Canadians, in certain circumstances, to discriminate. Christian organisations can require employees to abide by a lifestyle agreement, or a code of conduct, which is in keeping with their religious beliefs and practices. The organisation has to show that it is a “bona fide occupational requirement.” I will use the Ontario Human Rights Code as an example of how this works. The general principles would apply in similar legislation across the country:

Section 5(1) of the Ontario Human Rights Code states that there must be equality in employment:

“5 (1) Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.”

However, there is an exemption made for religious organisations. Section 24(1)(a) reads:

“24(1) The right under section 5 to equal treatment with respect to employment is not infringed where,

(a) a religious, philanthropic, educational, fraternal or social institution or organization that is primarily engaged in serving the interests of persons identified by their race, ancestry, place of origin, colour, ethnic origin, creed, sex, age, marital status or disability employs only, or gives preference in employment to, persons similarly identified if the qualification is a reasonable and bona fide qualification because of the nature of the employment[.]”

Hence the religious organisation can discriminate where it is “primarily engaged in serving the interests of persons identified by their ... creed.” It can give preferential hire to a “person similarly identified if the qualification is a reasonable and bona fide qualification because of the nature of the employment.”

This requires a careful evaluation of each specific situation. Is the organisation primarily engaged in serving the religious community? If so, it can give preference in hiring a person who agrees with its beliefs and practices, if it is reasonable and made in good faith because of the type of work that is being carried out by that position.

I will apply these criteria to a couple of examples to determine how this works. Please understand that I am sharing my opinion based upon my personal experience and reading of the legislation and the case law. What I present is not to be taken as legal advice; you should contact your own legal counsel to ensure your specific situation is properly canvassed for legal compliance.

Example 1: Christian Summer Camps. If a camp is “primarily engaged” in serving the interests of the religious community, then it can preferentially hire those who agree with its religious teachings and practices. However, it must be reasonable and in good faith. For instance, a camp counselor works closely with the campers as a role model and is responsible for inculcating religious beliefs. By the very nature of the employment, this would, in my view, be one hire that the camp could require adherence to the religious beliefs and practices of the community. Other jobs at the camp would have to be evaluated similarly.

Example 2: Church Vacation Bible Schools. These programs are designed to provide neighbourhood children with engaging

Bible teaching during the summer months. The employees would be directly involved in ministering to the children through such programming as puppet theatre, gospel-themed crafts or games, singing Christian songs, and so forth. Again, it would appear to me that the churches would have the right to ensure that their employees agree with their teachings and practices.

In all of this we must recognise, as the law stands, there may be situations where Christian organisations cannot legally enforce a lifestyle agreement on certain employees, depending upon the circumstances. Further, the government's 2019 CSJ attestation appears, at a minimum, to be a reiteration of the law as described above; and, at maximum, an attempt to force its ideological framework further than the law allows. I will address this point further.

The 2019 CSJ program requires a contractual agreement. The government is giving CSJ employers money to hire students. In return, the government demands adherence to its outlined criteria. These are contained in the application[1], Applicant Guide[2], and the Articles of Agreement[3]. Two sections stand out:

Article 2.1: "Project" is defined as "the hiring, administration of, job activities, and organization's activities as described in the Application Agreement." **This suggests that activities that an organisation is engaged in, even outside of the particular job in question, are subject to the government's evaluation.** Again, the government may be attempting to impose its ideology on the organisation through this means.

Article 12.1: There the employer contracts that none of the CSJ money it receives will "undermine or restrict the exercise of rights legally protected in Canada." Does this mean something beyond the statutory and constitutional law? In other words, **is it a "supra anti-discrimination" provision that the government deems necessary because it does not think the current legal protections are enough?** If it is, can the government legally make that further requirement?

These unanswered questions will have to be settled by a court of law should it become necessary. It seems, at this point, **we will have to wait to see which projects and organisations are denied funding and then determine whether there is sufficient ground to legally challenge the decisions.**

Conclusion

In the meantime, charities and small businesses must make up their own minds as to which is the best path forward for their circumstances. Many rely on grants from the federal government. Given that some charities were forced to reduce or even close their community outreach programs because of the financial shortfall in 2018, it might be time to reconsider whether having programs so reliant on government funding is worth the risk. Indeed, wherever possible, it would be prudent to identify alternative sources of funding in the event we are faced with another challenge.

However, since applicants are no longer required to attest to their agreement with government ideology on abortion and sexual issues, the Canadian Council of Christian Charities is encouraging all Christian charities to apply for funding.

We recognize that there is no guarantee that the government will not enforce an interpretation of its 2019 CSJ program that violates employers' freedom of religion and conscience. The government is willing to push for a "progressive" interpretation of the law in court, in accordance with its ideological commitments. But we will have to evaluate any such development on a case-by-case basis.

There are some who suggest that merely applying for the CSJ funding is to acquiesce to the government's position. That is a view that must be respected. After all, so the argument goes, you agree not to “undermine or restrict a woman's access to sexual and reproductive health services” in the Articles of Agreement. The logic is that we “know” what the government means by such statements: abortion ought to be a right even if it is not technically. Good point. It is one that each charity will have to answer for themselves.

However, we at CCCCs take the position that the phrase “undermining, or restricting” does not deny the right of religious organisations to speak or teach or live their religious views in opposition to the government's worldview. If we are challenged by the government on this, then we will use all the means available to us to fight any such injustice. It will become a legal and political issue should the government refuse to accommodate religious beliefs.

There can be no denying that the government has caused the pro-life Christian community much anguish over the last two years. The totalitarian impulse of this government's ideological framework has been revealed for what it is. The fact that in 2019 the government has rescinded its problematic 2018 attestation is not an indication that the troubling ideology has been removed. It has only been kept in temporary abeyance for the time being. Vigilance is the price we must pay for liberty. And, vigilant we must be.

As Christian charities navigate this political labyrinth, we will need the wisdom of Solomon and the determination of Paul to ensure that we are treated justly, so that our ministries can continue unhindered. Having everyone apply will force the government to make decisions on whether to fund religious charities. This will expose just how far the government is willing to go to enforce the “right view” of the world. And that will help us better gauge what we are up against in the inevitable challenges we will face with such a determined regime.

[1] See online: <https://catalogue.servicecanada.gc.ca/content/EForms/en/CallForm.html?URL=/content/dam/eforms/en/ESDC-EMP5396A.pdf&Asset=ESDC-EMP5396A.pdf>

[2] See online: https://www.canada.ca/content/dam/canada/employment-social-development/services/funding/CSJ2019_applicant_guide.pdf

[3] See online: <https://www.canada.ca/en/employment-social-development/services/funding/canada-summer-jobs/agreement.html>

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THOUGHTS ON *TO APPLY OR NOT TO APPLY FOR CANADA SUMMER JOBS FUNDING?*

1.  **Jim Rhyno**
January 7, 2019 at 1:56 PM

This is a good assessment of the present reality with CSJ.

