



## ***Equity Counts***

### ***Employment Equity in Recruitment and Selection for Academic Appointments at Carleton University***

**An Outline of Requirements for Search Committees**

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**Carleton**  
UNIVERSITY

**Canada's Capital University**

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## **Summary of Legislative and Policy Requirements of Employment Equity**

### **Objectives of Employment Equity:**

- To achieve equality in the work place so that no person is denied employment opportunities or benefits unrelated to ability;
- To correct the conditions of disadvantage in employment experienced by four designated groups (women, Aboriginal peoples, visible minorities, and persons with disabilities);
- To give effect to the principle that employment equity means more than treating persons in the same way but also means special measures and the accommodation of differences.

### **Federal Contractors Program Requirements:**

- Demonstrable good-faith practices and procedures to achieve levels of representation of the designated groups proportionate to the availability of qualified candidates in these groups.
- Active searches for qualified members of under-represented designated groups.
- Special measures and accommodation where levels of representation are extremely low.

### **Requirements of Employment Equity under Carleton University's Human Rights Policies and Procedures:**

- Primary criterion for appointment is academic and managerial excellence -- no candidate shall be recommended for appointment who does not meet the criteria for appointment;
- Where under-representation exists, active searches for qualified members of the four designated groups must be conducted and reported to the appropriate University Officer;
- Search committees must review the guidelines: "Employment Equity in Recruitment and Selection for Academic Appointments at Carleton University". Any questions can be directed to Equity Services;
- Criteria for selection must not systematically discriminate against members of the designated groups;
- Special care must be taken not to eliminate potentially strong candidates from the designated groups at the early stages of a search;
- Where the qualifications of two candidates for appointment are demonstrably equal and one of the candidates is a member of a group that is under-represented in continuing appointments in the unit, then the candidate from the under-represented group should be offered the position.

## The Carleton University Employment Equity Policy

### Preamble

This Policy supports Carleton University's commitment to sections 15 and 28 of the [Canadian Charter of Rights and Freedoms](#), to sections 1, 5 and 14 of the [Ontario Human Rights Code](#), [the Federal Contractors Program](#), provincial employment legislation, including the [Employment Standards Act](#) and the [Labour Relations Act](#), the [University's collective agreements](#) with its bargaining units, and the [University's Statement on Conduct and Human Rights](#).

### Principles

1. Carleton University is committed to providing equity in employment (including pay equity) and maintaining a supportive, hospitable and welcoming employment environment for all individuals.
2. The University is committed to achieving and maintaining a diverse workforce and to initiating special measures as required to ensure full participation and advancement of employees in groups that have traditionally been under-represented, to enable them to compete for positions and work with others on an equal basis.
3. The groups designated for measurement of employment equity include women, Aboriginal peoples, persons with disabilities, racialized or visible minorities, and such other groups as may be agreed from time to time by the University and its bargaining units or designated by legislation.
4. The University is also committed to providing accommodation on human rights grounds to employees to the point of undue hardship (considering cost, outside sources of funding, if any, and health and safety requirements) to enable them to perform the essential duties of their job.
5. The primary criterion for appointment to positions at the University is academic, professional, administrative or technical excellence as applicable. No candidate shall be recommended for appointment who does not meet the criteria for the appointment in question. The best available candidate should be hired, regardless of membership in a designated group.
6. Where the qualifications of two candidates for appointment are demonstrably equal, and one of these candidates is a member of a group that is under-represented in continuing appointment positions in a unit, then, all else being equal, the candidate of the under-represented group should be offered the position.
7. The University undertakes to use search procedures that require an active search for qualified members of under-represented groups.
8. Consistent with the directive of the Academic and Research Committee, appointment or search committees are required to hold a familiarization and training session, conducted by an Equity Advisor or designate, that covers the guidelines, principles, objectives, recent history, best practices, and rules and institutional expectations with respect to employment equity. Committees may also designate one member to have specific responsibility for employment equity; that person may request additional in-depth training to assist him or her in this role.
9. In the evaluation of candidates for appointment, confirmation, renewal, tenure and promotion, the criteria adopted must not systematically discriminate against members of designated groups and shall be reviewed periodically by deans and directors to ensure that the criteria do not undervalue work that is done predominantly by members of the designated groups. Committees are required to take special care not to eliminate at early stages potentially strong candidates who are members of designated groups.

10. The University undertakes to identify and remove any discriminatory policies and practices found in the recruitment, selection, transfer, promotion, performance appraisal, training, career development, compensation, benefits, termination and working conditions of employees in all levels and categories of employment.

### **Implementation**

11. The President of the University has primary responsibility for the University's employment equity program. The vice-presidents (Academic; Finance and Administration), assisted by their deans and directors, are responsible for implementing steps in the employment equity program.

12. Implementation of employment equity is at the University level and the unit level. A unit is defined as a recognized grouping having primary responsibility to generate recommendations for appointment into positions.

13. In designing and implementing employment equity, University management shall coordinate and cooperate with bargaining units on campus through joint union management committees. Management and unions should also consult with the Office of Equity Services and university or community organizations that represent the target groups of any program. Such representatives may be invited to participate in the work of such committees.

14. The terms of the employment equity plan for the University are to be provided to the bargaining units on campus by Equity Services and the Human Resources Department and may be incorporated as applicable into the relevant collective agreements with agreement of management and the bargaining unit. The plan should also be available in the Office of the President for consultation by any member of the University community.

15. Current documentation and guidelines on employment equity are to be provided to deans and directors, chairs and directors of schools, and unit heads by Equity Services. Training on related human rights issues shall be provided to these individuals at least bi-annually by the Human Resources Department and the Office of Equity Services, in consultation with any officer of the University responsible for employment equity. The University will also provide ongoing education and training to all employees on human rights issues.

16. For the purposes of implementing this policy, under-representation of designated groups will be assessed using the latest employment equity [National Occupational Classification \(NOC\)](#) data on external availability as the benchmark where appropriate. With the assistance of the Office of Institutional Research and Planning, the University will undertake assessment on a regular basis of the representation of target groups in its workforce by carrying out a workforce analysis, comparing representation levels in the University with relevant external data, determining under-representation, and establishing goals, timetables and methods for increasing representation.

17. Employment equity considerations are to be incorporated into employment systems review and process redesign initiatives.

### **Problem Solving**

18. Anyone who has a concern related to implementation of this Policy may bring it in writing to the Equity Policy Committee.

## Employment Equity Checklist for Academic Search Committees

### Active Search for Qualified Members of the Designated Groups:

- T Job ads that make very clear the University's and the department/School's commitment to employment equity and diversity;
- T Job ads written to attract qualified candidates from designated groups (e.g., inclusive language, refer to cultural diversity of the University and the city, opportunities to teach and do research in a diverse environment and in collaboration with diverse organizations and groups);
- T Specific placement of job ads in locations that will reach a diverse pool of applicants; (e.g. web sites and associations that focus on designated group members);
- T Ongoing attempts to contact outstanding doctoral students and graduates who are members of the designated groups at conferences and symposia (recruitment as an ongoing process);

### Screening Applicants:

- T Search committees that reflect the diversity of the external work force in the field (try to include at least one member of a designated group and consider including a member of a cognate department to achieve this);
- T Search committee terms of reference that address issues of diversity and equity;
- T Clear and agreed-upon ethical guidelines where candidate is known to a member(s) of the Committee;
- T Clear and agreed-upon selection criteria that do not unfairly exclude members of the designated groups;
- T Special care not to eliminate at the early stages potentially strong candidates who members of the designated groups (e.g., avoid narrow definition of an "acceptable" c.v.)
- T Selection criteria applied consistently when assessing all candidates;
- T Consideration of non-traditional areas of research related to the position;
- T Assignment of appropriate weight to teaching experience and accomplishments;
- T Routine re-evaluation of procedures where there are no designated groups on the short list in a field where there is empirical evidence of qualified designated-group members in traditional applicant pools (see statistical information provided by Equity Services).

### Interviewing:

- T Questions that focus on core competencies required for the appointment;
- T Core questions to be asked of all candidates;
- T Questions that respect human-rights protection (see Ontario Human Rights Guidelines);
- T *Bona fide* and job-related questions where related to a candidate's disabilities;
- T Questions that are gender-neutral and culturally neutral in their references;
- T Questions that permit elaboration of non-traditional areas of research and teaching;
- T Questions that do not unfairly prevent candidates with atypical career paths from being seen as competitive.

### Documentation:

- T Accurate and detailed records of committee decisions retained for 1.5 years;
- T Report to the Chair and Dean on outreach recruitment and active search measures;
- T Outline procedures and selection criteria used by the committee to Chair and Dean;
- T Statement of measures taken to meet employment equity requirements and those of the CUASA Collective Agreement in Report to Chair and Dean;
- T Update the department's recruitment and outreach files with information gathered on qualified candidates for future searches.

## **Extracts from Ontario Human Rights Commission, *Hiring? A Human Rights Guide***

*Note: Italicized notations have been added by Equity Services.*

### **Introduction**

The Ontario *Human Rights Code* (the "*Code*") states that it is public policy in Ontario to recognize the inherent dignity and worth of every person and to provide for equal rights and opportunities without discrimination. The provisions of the *Code* are aimed at creating a climate of understanding and mutual respect so that each person feels a part of the community and feels able to contribute to the community.

Human rights law is based on the principle that employment decisions should be based on the applicant's ability to do the job rather than on factors that are unrelated to job requirements, qualifications or performance. Consequently, employers are advised to ask only those questions that relate to job requirements and qualifications, and not ask questions that may contravene the *Code*.

### **Freedom from Discrimination in Employment**

Subsection 5 (1) under Part I of the *Code* prohibits discrimination in employment on the grounds of:

**race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, family status and handicap.**

The right to "equal treatment with respect to employment" includes, but is not limited to the employment application and recruitment process.

"Employment" is not defined in the *Code* but the Commission takes a broad and liberal approach to this term. It includes full-time and part-time employment, contract work, temporary staff from agencies, probationary periods.

Subsection 11 (1) of the *Code* also establishes that the right of a person under Part I is infringed where a requirement, qualification or factor exists that is not a prohibited ground of discrimination, but that results in the exclusion or restriction of a group of persons who are identified by a prohibited ground of discrimination, unless the requirement or factor is reasonable and genuine in the circumstances, subject to undue hardship on the employer.

Subsection 23 (2) of the *Code* prohibits the use of an employment application form or a written or oral inquiry that directly or indirectly classifies an applicant on the basis of a prohibited ground of discrimination.

Subsection 23(4) of the *Code* establishes that an employer cannot use an employment agency to hire people based on preferences related to race, sex, handicap or other grounds of the *Code*. Employment agencies cannot screen applicants based on discriminatory grounds and are not allowed to keep a record of client "preferences" of this kind.

There are also important exceptions to these basic prohibitions which are applied in particular circumstances and on certain grounds:

- Section 14 of the *Code* allows employers to implement special programs designed to relieve hardship or economic disadvantage, to assist disadvantaged persons or groups to achieve equal opportunity, or to contribute to the elimination of discrimination.
- Section 16 of the *Code* provides for exceptions to be made with respect to Canadian citizenship in certain employment situations.
- Section 24 of the *Code* allows for persons to be dealt with differently within a particular employment situation because of their age, sex, marital status, *etc.*, if the distinction being made is reasonable and genuine.

For further information on these exceptions, please see “Section 7: Exceptions”.

## **Advertising**

Job advertisements should not contain questions that ask directly or indirectly about race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, record of offences, age, marital status, family status or handicap.

Some qualifications may not mention a ground of the *Code* directly, but may unfairly prevent or discourage people from applying for a job. Advertisements for jobs that require “Canadian experience” or that indicate a preference for childless applicants are examples of “qualifications” that may be discriminatory barriers.

Requirements or duties for employment should be reasonable, genuine and directly related to the performance of the job. For example, it is reasonable, genuine and job-related to require a receptionist to speak clear, intelligible English, but it is not acceptable to require “unaccented English”. Or, if it is essential that the person must drive for the job, the advertisement may state that a valid driver’s license (with the required class) is required.

## **Employment Interviews**

At the interview stage of the employment process, the employer may expand the scope of job-related questions if necessary to determine, for example, the applicant's qualifications or his/her ability to perform the essential duties of the job.

**Questions about or related to the "Exceptions" outlined below are also permitted at the interview stage. Examples of permissible interview questions follow.**



## **Race/Colour/Ancestry/Place of Origin/Ethnic Origin**

### **Permissible Questions**

Questions about or relating to a service organization working with a particular community as to membership in the group served, if such membership can be justified as required to do the particular job.

### **Prohibited Questions**

Questions about or relating to physical characteristics such as colour of eyes, hair, skin, height, weight.

Questions about mother tongue, where language skills were obtained and whether one speaks English or French fluently, unless fluency in English or French is a reasonable and genuine requirement for the position.

Questions about or relating to birth-place, nationality of ancestors, spouse and other relatives, Canadian citizenship, landed immigrant status, permanent residency, naturalization, requests for proof of Canadian citizenship or Social Insurance Number (A S.I.N. may contain information about an applicant's place of origin or citizenship status. A S.I.N. may be requested following a conditional offer of employment). ***For all faculty positions, see "Permissible Questions" relating to citizenship and permanent residency below.***

Questions about or relating to "Canadian" experience for a particular job.

Questions about or relating to membership in organizations which are identified by a prohibited ground of discrimination, such as an Anglo-Canadian organization.

Questions which do not fall into the "Special Interest Organizations" exemptions set out below.

## **Creed**

### **Permissible Questions**

Questions by a denominational school as to religious membership, if the job involves communicating religious values to students.

### **Prohibited Questions**

All questions which do not fall into the "Special Interest Organizations" exceptions set out below.

## **Citizenship**

### **Permissible Questions**

Questions about or relating to citizenship, if required by law for a particular job.

**Questions about or relating to citizenship or permanent resident status, where cultural, educational, trade union or athletic activities can be restricted to Canadian citizens and permanent residents.**

Questions about or relating to citizenship or place of residence with intention to obtain citizenship, when an organization requires that a senior executive position be held by a Canadian citizen or a person living in Canada with the intention to obtain citizenship. ***Under Canadian Immigration Regulation, qualified candidates who are Canadian citizens or landed immigrants must be given priority over foreign candidates. Hence faculty searches permit questions about citizenship and immigration status.***

#### **Prohibited Questions**

Questions about or relating to the applicant's citizenship that do not fall within the exceptions outlined in the *Code*.

#### **Sex**

##### **Permissible Questions**

Questions about or relating to gender, if it is a reasonable and genuine requirement for a particular job, such as employment in a shelter for battered women.

##### **Prohibited Questions**

All other questions concerning the applicant's sex, including questions regarding pregnancy or child-bearing plans.

#### **Sexual Orientation**

##### **Permissible Questions**

None.

##### **Prohibited Questions**

All questions about or relating to sexual orientation.

#### **Record of Offenses**

##### **Permissible Questions**

Questions to determine whether the applicant has been convicted of a criminal offence for which a pardon has not been granted. Questions to determine if an applicant is bondable, if being bondable is a reasonable and genuine qualification of the job.

Questions to determine if an applicant has a record of convictions under the *Highway Traffic Act*, if driving is an essential job duty (e.g. bus driver).

##### **Prohibited Questions**

All other questions except those with respect to unpardoned *Criminal Code* convictions.

#### **Handicap/Disability**

Employers are obligated to offer candidates with disabilities an accommodation of their needs if required for any part of the interview or test screening process.

If the applicant's disability becomes an issue at the interview, e.g. where the applicant chooses to talk about his/her disability, an employer may make inquiries about the applicant's accommodation needs. Inquiries should be limited to the applicant's ability to perform the essential duties of the job. Questions should not be unnecessary, such as "How did you end up in a wheelchair?" or "Have you been blind all your life?". They should be asked with the aim of ascertaining the applicant's ability to perform essential duties.

Any questions beyond this scope should be made with great caution and care as it may lead to a complaint on the ground of disability should the applicant not be successful. Additionally, if an employer fails to canvass possible accommodation measures where disability has become an issue at an interview, this also could potentially lead to a complaint on the ground of disability should the applicant not be successful.

Any other disability issues should not be raised until a conditional offer of employment is made.

These protections also apply to other accommodation needs covered by the *Code*, such as pregnancy and religious needs, although the requirement to accommodate a disability is based on the needs of the individual, whereas other grounds are protected on the basis of needs of the group.

### **Permissible Questions**

Questions directly related to the applicant's ability to perform the essential duties of the job.

### **Prohibited Questions**

All other questions concerning the applicant's disability.

## **Age**

### **Permissible Questions**

Questions about or relating to age if the employer serves a particular age group and/or if age requirements are reasonable and genuine to qualify for employment.

### **Prohibited Questions**

All other questions about age.

## **Marital Status**

### **Permissible Questions**

Questions about or relating to marital status if the employer serves a particular group identified by marital status (e.g. single woman) and/or if marital status is a reasonable and genuine requirement for employment.

### **Prohibited Questions**

All other questions as to marital status.

## Family Status

### Permissible Questions

Questions about or relating to family status if family status is a reasonable and genuine requirement for employment. Please see further *Nepotism or Anti-Nepotism Policies* in “Section 7: Exceptions”.

### Prohibited Questions

All other questions as to family status.

## Exceptions

The *Code* sets out a number of special exceptions to the rule prohibiting discrimination in employment. The exceptions are made primarily on the basis of equity considerations, such as the need to allow programs to serve the needs of particular communities, or on the basis of other special circumstances.

Examples of questions based on the exceptions which may be asked at the interview stage are included under "Permissible Questions" (see above), and for greater clarity, the exceptions are outlined in more detail below:

### Special Programs (*Code*, Section 14)

Employers may implement special programs designed to relieve hardship or economic disadvantage or to assist disadvantaged groups to achieve equal opportunity. Inquiries as to membership in a group experiencing hardship or disadvantage would be permissible.

### Canadian Citizenship (*Code*, Section 16 (2) and (3))

In some instances, where the employment concerns participation in cultural, educational, trade union or athletic activities, Canadian citizenship or lawful admission to Canada for permanent residence may be a reasonable and genuine requirement, qualification or consideration. ***Under Canadian Immigration Regulation, qualified candidates who are Canadian citizens or landed immigrants must be given priority over foreign candidates. Hence faculty searches permit questions about citizenship and immigration status.***

The *Code* also allows organizations to require that CEOs and other senior executives meet residence requirements (e.g. Canadian citizenship or place of residence in Canada with the intention to obtain Canadian citizenship).

### Special Interest Organizations (*Code*, Section 24 (1)(a))

A religious, philanthropic, education, fraternal or social institution or organization that is primarily engaged in serving the interests of persons identified by race, ancestry, place of origin, colour, ethnic origin, creed, sex, age, marital status or handicap, is allowed to give preference in employment to persons similarly identified, if the qualification is a reasonable and genuine one because of the nature of the employment. Inquiries about such affiliation may be made at the employment interview stage.

### Special Employment (*Code*, Section 24 (1)(b))

In some instances, because of the nature of the employment, age, sex, record of offences or marital status may be a reasonable and genuine qualification for the particular job. In such instances, inquiries with regard to the particular qualification may be made at the employment interview stage.

**Private Medical/Personal Attendants** (*Code*, Section 24 (1)(c))

A person may refuse to employ a medical or personal attendant for him/herself or a family member on a prohibited ground of discrimination. Inquiries as to a prohibited ground of discrimination would be permitted in this situation.

**Nepotism or Anti-Nepotism Policies** (*Code*, Section 24)(1)(d))

An employer may grant or withhold employment or advancement in employment to a person who is a spouse, child or parent of the employer or an employee. Inquiries which would solicit information as to whether an applicant for employment is a spouse, child or parent of a current employee would be permissible.

**Information after a Conditional Offer of Employment**

In order to avoid a misapprehension of discrimination, it is appropriate in some circumstances to defer asking for particular information until after making an offer of employment (preferably written) conditional on a satisfactory response.

This is because the information or documentation may include particulars in relation to a prohibited ground of discrimination.

For example:

- a driver's licence will contain information on date of birth
- a work authorization issued by Immigration Canada will contain information regarding date of arrival in Canada
- a Social Insurance Number card (S.I.N.) may contain information regarding date of arrival in Canada

Requests for such information may be made after making an offer of employment where it is reasonably and genuinely related to the job.

Requests for medical examinations or health information necessary for pension, disability, superannuation, life insurance and benefit plans should also be made after a conditional offer (preferably written) of employment is made.

For additional assistance in determining whether an exception applies, contact Equity Services at 5622.

**RELEVANT PROVISIONS OF THE ONTARIO HUMAN RIGHTS CODE****Direct Discrimination**

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, age, record of offenses, marital status, family status or handicap.

23 (1) The right under section 5 to equal treatment with respect to employment is infringed where an invitation to apply for employment or an advertisement in connection with employment is published or displayed that directly or indirectly classifies or indicates qualifications by a prohibited ground of discrimination.

(2) The right under section 5 to equal treatment with respect to employment is infringed where a form of application for employment is used or a written or oral inquiry is made of an applicant that directly or indirectly classifies or indicates qualifications by a prohibited ground of discrimination.

(4) The right under section 5 to equal treatment with respect to employment is infringed where an employment agency discriminates against a person because of a prohibited ground of discrimination in receiving, classifying, disposing of or otherwise acting upon applications for its services or in referring an applicant or applicants to an employer or agent of an employer.

### **Constructive Discrimination**

11 (1) A right of a person under Part I is infringed where a requirement, qualification or factor exists that is not discrimination on a prohibited ground but that results in the exclusion, restriction or preference of a group of persons who are identified by a prohibited ground of discrimination and of whom the person is a member, except where,

- (a) the requirement, qualification or factor is reasonable and *bona fide* in the circumstances; or

- (b) it is declared in this Act, other than in section 17, that to discriminate because of such ground is not an infringement of a right.

- (2) The Commission, the board of inquiry or a court shall not find that a requirement, qualification or factor is reasonable and *bona fide* in the circumstances unless it is satisfied that the needs of the group of which the person is a member cannot be accommodated without undue hardship on the person responsible for accommodating those needs, considering the cost, outside sources of funding, if any, and health and safety requirements, if any.

### **Exceptions**

14 (1) A right under Part I is not infringed by the implementation of a special program designed to relieve hardship or economic disadvantage or to assist disadvantaged persons or groups to achieve or attempt to achieve equal opportunity or that is likely to contribute to the elimination of the infringement of rights under Part I.

16 (1) A right under Part I to non-discrimination because of citizenship is not infringed where Canadian citizenship is a requirement, qualification or consideration imposed or authorized by law.

(2) A right under Part I to non-discrimination because of citizenship is not infringed where Canadian citizenship or lawful admission to Canada for permanent residence is a requirement, qualification or consideration adopted for the purpose of fostering and developing participation in cultural, educational,

trade union or athletic activities by Canadian citizens or persons lawfully admitted to Canada for permanent residence.

(3) A right under Part I to non-discrimination because of citizenship is not infringed where Canadian citizenship or domicile in Canada with the intention to obtain Canadian citizenship is a requirement, qualification or consideration adopted by an organization or enterprise for the holder of chief or senior executive positions.

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 handicap 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;

(b) the discrimination in employment is for reasons of age, sex, record of offenses or marital status if the age, sex, record of offenses or marital status of the applicant is a reasonable and *bona fide* qualification because of the nature of the employment;

(c) an individual person refuses to employ another for reasons of any prohibited ground of discrimination in section 5, where the primary duty of the employment is attending to the medical or personal needs of the person or of an ill child or an aged, infirm or ill spouse or other relative of the person; or

(d) an employer grants or withholds employment or advancement in employment to a person who is the spouse, child or parent of the employer or an employee.

24 (2) The Commission, the board of inquiry or a court shall not find that a qualification under clause (1) (b) is reasonable and *bona fide* unless it is satisfied that the circumstances of the person cannot be accommodated without undue hardship on the person responsible for accommodating those circumstances considering the cost, outside sources of funding, if any, and health and safety requirements, if any.

## Human Rights Considerations for the Primary Search File

### Introduction

In the event of a human rights complaint search committees and the hiring authority are responsible for making a case that there was no violation of human rights in the recruitment and selection process. It is advisable to ensure that your primary search file supports your ability to document clearly that both recruitment and selection procedures respected the human rights of all candidates.

Files on academic searches comprise records documenting the search for, and selection of, the best candidate. These files represent the primary means of tracking the process followed and the decision taken and therefore become essential in responding to any human rights complaint that might occur.

Search and selection records may include, but are not limited to, descriptions of the position, job ads, recommendations for reappointment, nomination memos, application forms, committee membership lists, candidate lists, *curricula vitae*, career dossiers, particular samples of work requested in the ad, appraisal criteria for selection, list of standard questions addressed to candidates or applicants, search or selection committee minutes, notes and reports, and related documentation and substantive correspondence.

For each search, Equity Services advises that the chair of the search committee create a primary file that be retained confidentially in the hiring academic unit for one and half years after selection of the successful candidate. This period will be longer if the appointment process becomes the subject of complaint. We also advise that the chair of the search committee include in the primary file the following documents so as to strengthen the ability to document that human rights were respected in the recruitment and selection process:

### Authorization for Staffing Action

- records outlining the staffing option chosen, together with rationale for this decision and reasons for the area of search.
- copies of any significant approvals obtained (e.g., spending authority, approval to restrict your staffing action to a particular sector or group, etc.).
- a statement on whether an active search for designated groups is required (if they are under-represented in the unit) and what forms this active search will take.

### Establishing Qualifications and Competencies:

- a description of essential qualifications (or position description if there is one);
- record of search committee decisions regarding how qualifications were established and how you determined which qualifications to use (e.g., results of job analysis, copies of selection standards, etc.); and
- **Important:** the rationale if not specifically assessing a particular factor of merit.

### Advertising Job Opportunities:

- written notes or records of advertising options chosen and rationale;
- copy of all postings used to advertise the position;
- an outline of any active search measures performed (if required) and a record of the relative availability of the four designated groups in the discipline of the appointment;



- copies of any written committee correspondence related to advertising the job.

**Screening, Short Listing and Assessing Applicants:**

- search committee membership list and some indication of the degree of diversity of the committee;
- an outline of all search materials provided to each of the search committee members;
- copies of all applications received and any summary of applicant information;
- summaries showing the actions and results of screening (i.e., for eligibility e.g., in-service, citizenship, etc.) and short listing (i.e., on qualifications);
- records of assessment criteria (including weights) and methodology chosen and why appropriate for position;
- outline of any accommodations requested by one or more candidates;
- outline of any accommodations provided for one or more candidates;
- description of assessment tools (e.g., oral presentation), screening tools (e.g., examples of work) or tests and past work performance reference check guides, including scoring procedures including rating or marking guides;
- copies of each candidate's assessment tools and rating results, including notes made by any assessment team;
- comparative summaries of the scores (i.e. points, pass or fail, rank order, etc.) for assessments conducted for each candidate who participated;
- copy of official decisions taken by the search committee on process, procedures and assessment of candidates;
- copy of search committee chair's summary of interview notes;
- copies of all written committee correspondence regarding the screening and assessment of candidates;
- names of references, copy of reference check form used, references supplied and indication of who conducted reference checks;
- copy of the short-list of candidates selected for recommendation to the hiring authority;
- copies of any documentation and correspondence related to an internal inquiry by the senior hiring authority (if applicable).

*Note: All transitory records of the committee/panel should be destroyed, including telephone messages that do not have substantive content, notices of meetings or draft letters and draft reports. **Any correspondence with substantive content (such as telephone messages and emails) must be retained as formal correspondence.***

## **Legislative Requirements on the Hiring of Foreign Academics**

### **Employing Foreign Academics (taken from HRSDC Web Site)**

Employing foreign academics can help degree-granting post-secondary educational institutions in Canada meet their staffing and teaching needs and attract new knowledge and expertise to Canadian campuses.

Special hiring criteria have been developed by Human Resources and Skills Development Canada (HRSDC) and Citizenship and Immigration Canada (CIC) in cooperation with universities, degree-granting colleges, and unions representing Canadian academics. These criteria are designed to take into account the career development and employment of Canadian academics.

#### **Criteria:**

Before a degree-granting educational institution can hire a foreign academic for a position in Canada, it must:

- Advertise vacant positions in Canada;
- Make sure any vacant position advertised abroad is also advertised simultaneously in Canada;
- Advertise for a reasonable length of time (about a month) to allow broad exposure of the vacancy to Canadians and permanent residents;
- Demonstrate that the advertising medium used - web, print or electronic - is effective in attracting appropriate candidates for the position;
- Include in the advertisement this statement: "All qualified candidates are encouraged to apply; however Canadians and permanent residents will be given priority;"
- Meet all conditions of applicable collective agreements;
- Complete the Foreign Academic Recruitment Summary outlining the educational institution's hiring decision and providing summaries of Canadian applicants verified by the vice-president (academic) or other senior academic official of the educational institution.
- Be prepared to complete a yearly summary report on recruitment practices for Canadian academics and results.

#### **Hiring Steps:**

Educational institutions hiring foreign academics for Canadian positions must:

- Submit an HRSDC Foreign Worker Application for a labour market opinion (LMO) and the Foreign Academic Recruitment Summary to the HRSDC Foreign Worker office responsible for your area.
- Once HRSDC has approved your job offer, send a copy of the HRSDC confirmation letter to the foreign academic.
- Tell the foreign academic to apply for a work permit from CIC.

Next, CIC decides whether the foreign academic will get a work permit according to the requirements to work and reside temporarily in Canada.

### **Academic Exemptions:**

Under the Immigration and Refugee Protection Act (IRPA), a variety of foreign academics are exempt from some or all of the hiring steps.

Under the *Immigration and Refugee Protection Act (IRPA)*, universities and colleges in Canada can hire certain types of foreign academics without requiring a Human Resources and Skills Development Canada (HRSDC) labour market opinion, and/or without the foreign academic requiring a work permit.

### **Positions Exempt From Work Permits And HRSDC Labour Market Opinions:**

Foreign workers who do not need a Citizenship and Immigration Canada (CIC) work permit or an HRSDC labour market opinion include:

- Academic consultants and examiners;
- Graduate assistants;
- Self-funded researchers.

### **Entry to Canada**

These academics can apply as visitors directly at a [CIC visa office](#) or at a Canadian Port of Entry, in the case of citizens of the United States, St. Pierre et Miquelon and Greenland.

### **Positions Exempt from HRSDC Labour Market Opinion Only:**

Foreign workers who need a CIC work permit, but do not require an HRSDC labour market opinion include:

- Post-doctoral fellows;
- Research award recipients;
- Eminent individuals, for example leaders in various fields;
- Guest lecturers;
- Visiting professors;
- Citizens of the U.S. and Mexico appointed as professors under the university, college and seminary levels of the North American Free Trade Agreement (NAFTA);
- Citizens of Chile appointed as professors under the Canada Chile Free Trade Agreement (CCFTA).

### **Entry to Canada:**

These academics can apply for a work permit directly at a [CIC visa office](#) or at a Canadian Port of Entry, in the case of citizens of the United States, St. Pierre et Miquelon and Greenland.

### **Exemptions for Canada Research Chairs:**

In 2000, the Government of Canada in cooperation with post-secondary institutions established the Canada Research Chairs (CRC) program. The program aims to create and provide research funding for 2,000 Chairs positions for Canadian and foreign academics in key academic fields by 2005. The intent of the CRC program is to give Canada a competitive edge in attracting, recruiting, and retaining academics who are world leaders in their respective fields of expertise.

**Types of Chairs:**

Seven-year renewable Chairs for experienced researchers considered world leaders in their fields;

Five-year Chairs, renewed once, for researchers with potential to lead in their fields.

**Hiring Criteria:**

Universities hiring Foreign Workers for Canada Research Chairs positions :

Do **not** need to apply for an HRSDC labour market opinion;

May inform foreign CRC recipients to apply for a work permit directly at a [CIC visa office](#) or at a Canadian Port of Entry, in the case of citizens of the United States, St. Pierre et Miquelon, and Greenland.

Last modified: 2010-11-02.

## Ministerial Clarification on Policy Governing the Selection of Foreign Candidates

Human Resources  
Development Canada  
Deputy Minister  
Ottawa, Canada  
K1A 0J9

Dec. 21 2001

Mr. James Turk  
Executive Director Canadian Association of University Teachers  
2675 Queensview Drive  
Ottawa, Ontario  
K2B 8K2

Dear Mr. Turk:

Thank you for your letter of November 28, 2001, about the new policy on the recruitment of foreign academics.

You are correct that the policy requires that priority for appointment to academic positions must be given to qualified Canadians and permanent residents. **Only if no qualified Canadians and permanent residents can be found can the position be offered to a foreign academic.** It is up to the universities to set the job requirements and should a qualified Canadian be found, he or she must be offered the position before it is offered to a foreign academic.

Since the announcement of the policy, our foreign worker officers across the country have been informing universities and university colleges about the new process allowing these institutions to advertise simultaneously in Canada and abroad for foreign academics. We will draw the situation you have raised to the attention of the responsible region of Human Resources Development Canada (HRDC) and ask foreign worker officers to ensure that universities are aware of the intent of the new policy.

Thank you for bringing this matter to my attention. Should you have any questions, please do not hesitate to contact Sandy MacDonald, Director of the Foreign Worker Program at 819-953-8635.

Yours sincerely,

Claire M. Morris  
Deputy Minister