



Hiring for **Decolonization, Diversity, and Inclusion** in the Creative Industries Micro-Credential

Virtual Educational Resource

Acknowledgements

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MODULE 1

Human Rights Laws and Hiring
for Decolonization, Diversity, and
Inclusion

Moving Beyond Diversity Towards Racial Equity

BY BEN HECHT

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As protests sweep the United States, it's clear that returning to "business as usual" will not be good for business. In just a few days, countless companies that don't talk about racism publicly have spoken out to condemn racism and police brutality.

Employees of color have openly called out racism in their own institutions. On this critical issue, neither consumers nor employees are looking for vague platitudes about change; they want to see companies committing to action within their own walls. Achieving racial equity in the workplace will be one of the most important issues that companies will tackle in the coming decade.

This became evident to me months ago, when I spoke with almost two dozen executives of Fortune 500 companies. My goal was to understand if and how they were thinking about racial equity as part of my work at Living Cities, a nonprofit focused on closing income and wealth gaps in America. The vast majority affirmed that racial equity was an obvious business imperative. But less obvious was what to do about it. With traditional diversity interventions failing, these leaders – the majority of whom were white – reported feeling ill-equipped, even afraid, to act.

Given U.S. history, it shouldn't surprise us that race makes corporate leaders uneasy. It certainly made me

uneasy when, six years ago, members of my staff told me that Living Cities was a hard place to work for people of color. They shared that, despite a racially diverse staff, our office culture dictated that people of color only contribute in ways that white people, including me, were comfortable with. Project leads relied on "objective" reports and case studies, while dismissing data from staff's personal experiences as "too emotional." When horrific instances of racial injustice occurred, like the murders of Trayvon Martin or Tamir Rice, our workday continued largely unaffected, with little acknowledgement or space for the emotions they triggered for staff. Discussions about racism were discouraged as "divisive" or "unproductive." In short, our workplace was unable to acknowledge the lives they live and value them for who they are.

Racism's legacy is complex, brutally ugly, deeply personal, and yet to be truly reckoned with, especially in the workplace. Not even 60 years from the end of legal racial segregation, there's no question that the harmful effects of that history live on in our institutions and in each of us. Further, it's clear that the suite of diversity and inclusion tools and practices that went mainstream in the '90s are grossly insufficient for racial equity work. Instead of driving fundamental changes in organizations, they largely focus on "velcro-ing" new guidelines, practices, or programs onto the existing structures and culture of the workplace in an attempt to help employees of color better "fit in" and succeed.

Today's racial equity and inclusion efforts must flip that premise on its head. Instead of trying to change people to fit the organization, we must focus on transforming our organizations to fit all people. What I've realized over the six years since that initial, very difficult conversation with my staff is that our culture was the problem and had to be changed. To move toward racial equity, organizational culture must prioritize humanity. People need the ability to work with the dignity of having their histories acknowledged and their life experience valued. Only then will companies be able to recruit and retain the thriving, diverse workforce that leaders and customers want – and need – in the next decade, and beyond.

At Living Cities, we have been striving for years to take up this charge. And to be clear, we are not done. Nor do I expect that we will ever be: building and maintaining this racial equity culture is a daily practice. It is hard. Still, I am writing this piece with other white leaders like myself in mind, to share some of the playbook that our organization has found valuable so they can focus on the right things and move beyond their fear.

In particular, this process has forced me to abandon many mainstream, deeply internalized norms around organizational leadership. Here are three of the most important lessons:

Understand How Power Works and Use it for Change

From 1619 to 1965, this country had laws, policies and practices – from slavery to Jim Crow to redlining – that legally separated white and Black people in an attempt to maintain a white supremacist society. The inhumanity required for people to function in such a society – to dehumanize others and be dehumanized – has left its mark on our nation and, by extension, our organizations in innumerable ways.

And yet many white leaders like myself have gone through our lives and careers with only the shallowest understanding of racism in America, blind to our own

white culture and its harms. In contrast, it was quickly revealed to me throughout this process the ways that my Black colleagues, and colleagues of color more broadly, have long understood racism's costs and impact, inside an office and out, as a matter of survival.

So, to build a new, more inclusive culture, we first needed to be able to see the norms, values, and practices in our institutions that advantage white people and ways of working, to the exclusion and oppression of all others.

To do this, we had to commit time and resources to staff members' individual learning. Understanding history, interrogating personal biases, building empathy and respect for others, getting comfortable with vulnerability – these skills require training and ongoing practice. This is dedicated, individual work that must be modeled from the top. To start, all staff, including myself, underwent multi-day anti-racism trainings to build a shared vocabulary, definitions and analysis to ground our group conversations. New staff members are now expected to take this training within 90 days of hire. A permanent, in-house team of staff (Colleagues Operationalizing Racial Equity, or CORE) are responsible for the deepening of this practice, on an ongoing basis, through trainings, Employee Resource Groups, all-staff conversations, coaching, and internal racial equity consultation for other teams.

Putting these skills into action at work requires deep understanding and harnessing power. Each of us is learning to ask: What informal and formal power do I hold to shift culture? How should I wield it to change damaging norms and power dynamics within our institution? For example, I long considered the departures of Black staff members largely to be isolated cases. It took others in the organization to raise what I wasn't seeing: a pattern. That realization forced me to grapple with new questions, such as the racial competencies of those conducting exit interviews, what questions were being asked, and why the information gathered about those departures was not seriously interrogated.

Similarly, time and time again, staff have pointed out how notions of “professionalism” and “appropriateness” have been wielded by white people to avoid or stifle challenging perspectives or conversations. I had to reckon with the fact that I had allowed our culture to, de facto, authorize a small group to define what issues are “legitimate” to talk about, and when and how those issues are discussed, to the exclusion of many. One way to address this was by naming it when I saw it happening in meetings, as simply as stating, “I think this is what is happening right now,” giving staff members license to continue with challenging conversations, and making it clear that everyone else was expected to do the same.

In particular, I’ve found that the Person-Role-System framework promoted by the Annie E. Casey Foundation, has helped deepen each staff member’s ability to contribute to building our inclusive culture. The simplicity of this framework is its power. Each of us is expected to use our racial equity competencies to see day-to-day issues that arise in our roles differently and then use our power to challenge and change the culture accordingly.

For me, in my role as CEO, that meant relinquishing some of my formal authority to a group of more inclusive decision-makers so that our most mission-critical decisions reflected a diversity of perspectives, even if I would have made a different decision on my own. Our chief operating officer ensured that hiring processes were changed to focus on diversity and the assessment of candidates’ racial equity competencies, and that procurement policies privileged businesses owned by people of color. Our head of lending repurposed our loan funds to focus exclusively on closing racial income and wealth gaps, and built a portfolio that puts people of color in decision-making positions and begins to challenge definitions of creditworthiness and other norms.

Conflict Must be Understood and Embraced as Part of the Process

Conflict is not only incidental but is *required* for transformation to occur and be sustained. It’s been said that conflict – from discomfort to active disagreement – is change trying to happen. Unfortunately, most workplaces today go to great lengths to avoid conflict of any type. That has to change. The cultures we seek to create cannot brush past or ignore conflict, or worse, direct blame or anger toward those who are pushing for needed transformation.

For example, I have yet to attend a single racial equity training session where the simple use of words like “racism,” “whiteness,” and “privilege” have not made people visibly uncomfortable. My own colleagues have reflected that, in the early days of our racial equity work, the seemingly innocuous descriptor “white people” uttered in an all-staff meeting was met with tense silence by the many white staff in the room. Left unchallenged in the moment, that silence would have either maintained the status quo of shutting down discussions when the anxiety of white people is high or required staff of color to shoulder all the political and social risk of speaking up.

Conflict is also an inherent part of interrupting the patterns that maintain structural disadvantages around issues such as hiring, pay equity, and advancement. If no one had challenged me on the turnover patterns of Black staff, we likely never would have changed our behaviors. Similarly, it is risky and uncomfortable to point out racist dynamics when they show up in daily interactions, such as the treatment of people of color in meetings, or team or work assignments. Over the course of years, it was the leadership of staff at all levels within the organization – particularly Black women, as is often the case – to take great risks in challenging me to reflect on my blind spots and use my authority to commit the organization to this change process. My job as a leader continuously is to model a culture that is supportive of that conflict by intentionally setting aside defensiveness in favor of public displays of vulnerability when disparities and concerns are raised.

To help staff and leadership become more comfortable with conflict, we use a “comfort, stretch, panic” framework. The framework helps assess your own state of mind and physiological reactions when facing challenging moments. Interactions that make us want to shut down are moments where we are just being challenged to think differently. Too often, we conflate this healthy stretch zone with our panic zone, where we are paralyzed by fear, unable to learn. As a result, we shut down. Discerning our own boundaries and committing to staying engaged through the stretch is necessary to push through to change.

Adoption of this framework was essential to my own ability to embark on this culture change process. Running diverse but not inclusive organizations and talking in “race neutral” ways about the challenges facing our nation were within my comfort zone. With little individual understanding or experience creating a racially inclusive culture, the idea of intentionally bringing issues of race into the organization sent me into panic mode.

Understanding that this was going to be a learning journey that would require me and all my staff to stretch ourselves gave me permission to focus on learning about race and racism, managing discomfort, and building competencies to distinguish between real danger worthy of panic and stretch-induced fear.

Commit to Ongoing Learning and Long-Term Transformation

The work of building and maintaining an inclusive, racially equitable culture is never done. The personal work alone to challenge our own individual and professional socialization is like peeling a never-ending onion. Organizations must commit to sustained steps over time, to demonstrate they are making a multi-faceted and long-term investment in the culture – if for no other reason than to honor the vulnerability that staff members bring to the process. This work is hard and takes a deeply personal toll. The process is only as good as the commitment, trust, and goodwill from the

staff who engage in it – whether that’s confronting one’s own white fragility or sharing the harms that one has experienced in the office as a person of color over the years.

I’ve also seen that the cost to people of color, most particularly Black people, in the process of building new culture is enormous. We perpetuate inhumanity in the workplace when we explicitly or implicitly rely on people of color, especially Black people, to carry the burdens of educating others or fighting racism instead of us. My own staff members have told me time and time again that always having to be the advocate for equity, share personal stories, and experience firsthand their colleagues’ anger, fear, and guilt as they build their competencies is like ripping open an old wound. As leaders, especially as white people, failure to stay the course and to use our power to disproportionately shoulder the burden to combat racism at work is a violation of the trust that they’ve put in us and this process.

To do this effectively, as with all elements of management, you measure progress and adapt based on data. We formally track change in our organizational culture in multiple ways. For example, we track staff engagement, satisfaction, and tenure disaggregated by race, role and level so that we can identify where there are disparities. We conduct an annual competency survey to gauge our collective understanding of how race impacts our work, asking questions like: How well equipped are staff to identify and address interpersonal, institutional, and structural racism in the workplace? How often are staff taking risks and putting aside discomfort to engage in critical conversations? How much does organizational leadership participate in and support conversations about racial equity internally? Our annual staff performance reviews hold every staff member accountable for achievement against a personal racial equity and inclusion objective at the beginning of the year.

Organizations cannot afford *not* to do this work, but they also can’t enter into it lightly, under the misconception

that a training or workshop checks the box. True racial equity and inclusion work in the workplace must look unlike anything we've done in past decades, because we've consistently failed to tackle racial inequity at its deepest roots. But we can start today, by bringing our fullest selves to the offices and desks where we spend most of our waking lives and empowering each other to do the same.

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BEN HECHT is President & CEO of Living Cities., a collaborative of 18 of the world's leading foundations and financial institutions. A lawyer and CPA, he has led the organization's transformation into one of the nation's leading economic justice organizations.

Netflix's VP of inclusion strategy specifically uses anti-racist language to build equity in the workplace – here's why she does it, and 5 important takeaways for companies that want to evaluate their own practices.

BY VERN MYERS

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Vern Myers is the vice president of inclusion strategy at Netflix, where she spearheads inclusion and equity initiatives and manages a team of inclusion experts worldwide.

Myers shares her struggles combating bias among employees and the push back she received for using terms like “oppression,” “white supremacy,” and “anti-blackness” to describe discrimination in the workplace.

Companies are using words like “diversity” and “inclusion” without putting in the work, she says, as marginalized groups have “bent over backward to take care of white people’s feelings as a way of surviving beside them.”

Now, she’s candidly using these words and phrases in conversations with CEOs, slide decks, group presentations, and social media to revamp “diversity training.”

Myers also shares 5 explicit ways companies can incorporate the lived experiences of BIPOC, evaluate their current systems, and lead with compassion.

Visit Business Insider’s homepage for more stories (<https://www.businessinsider.com>). New words and phrases are added to the dictionary every year. There are graphs that show the frequency of a word’s use over the

decades and centuries. Prominent dictionaries even pick a new “word of the year” every year.

What all of these cultural trends have at their core is that how we think and feel about the world is embodied by how we speak about it. And how we move through the world sometimes comes to a crucial tipping point.

I remember consulting with a nonprofit juvenile justice agency in the liberal northeast years ago. A white male leader in the planning group objected to my use of the word “oppression” to describe systems like racism, sexism, elitism that target certain groups.

He said, “Well no one here is oppressed.”

How could I go on doing this? How could I teach a workshop to leaders who profess to care about the rights of young people, mostly Black and poor, if I can’t even talk about oppression?

Another client, a white male partner in a prestigious white shoe law firm in NY, similarly objected to my use of the term. “Nobody in this firm is oppressed,” he explained to me. “Not with these salaries. Oppression is like what happened to the Jews in Germany. No one is wearing armbands around here.”

How could I get this law firm partner to see that you could count the number of Black men on two hands who were partners in elite law firms of New York – despite the fact that many of them had been founded almost a century ago? And that there were no Black women or women of color partners at all?

In both cases, I convinced myself I could do some good, even if I couldn't use the word "oppression."

I got myself together, put on my compliant Harvard Law school educated mask and returned to the work. Just like oppression, bias was a hard word for some.

Bias is something that people don't know they have, not because they're bad people but because in the brain's attempt to process lots of data efficiently, it takes shortcuts.

Yet those shortcuts can prevent you from being hired or being considered for a promotion – and they can even get you killed when you are Black.

Even before the racial revelations that came flooding in with the horrific killings of Ahmaud Arbery, George Floyd, and Breonna Taylor, I used the word in my TED Talk (<https://www.youtube.com/watch?v=uYyvbgINZkQ>).

There I talk about the practice of brutality against Black people, recalling the names of Black men executed by police or other members of the state.

Maybe they hadn't seen my talk, but when one of the most profitable banks in the country hired me to talk to employees about creating diverse and inclusive environments, they told me they prefer I not use the word "bias" in my slide deck. They suggested I talk about "assumptions" instead.

I took the word out of the deck but used it in my presentation. They never asked me back again.

"Where should I draw the line?" was a question I asked myself. Should I use these words in protest? How can we

fix the thing if we can't talk about the thing?

What I began to realize -- and wish I had realized earlier in my work -- is that I have been guilty, along with many in the Diversity & Inclusion Movement, of "system beating" as Valarie Batts of Visions, Inc. calls it.

We have bent over backward to take care of white people's feelings as a way of surviving beside them.

We have used only the words that those in power could tolerate. I and many in my profession have worked hard not to offend, while at the same time asking Black and other marginalized employees to make adjustments so they can survive in a dominant culture; this forces them to shoulder the burden rather than the individuals fostering racism.

System beating may come across as professional and proper, but it is really a strategy for coping with the denial, the resistance, the cultural incompetence, and "the fragility of white people," as Robin DiAngelos has termed it.

Even the words diversity and inclusion were strategic ways to point to inequities in a less troublesome way so that people in groups that have been privileged by racism wouldn't be scared off from addressing the inexplicable imbalances in almost all areas of our society.

Inexplicable of course, unless you are willing to examine and name racism for the insidious and pernicious force it is.

Just a few weeks ago, I was advising someone about why anti-blackness was not "too negative" of a phrase to include in a memo to the company, but rather the proper term to refer to the stubborn sentiment pervading corporate and societal culture and preventing us from realizing true cultural change.

The person said, "I get it, I just don't want it to upset people," to which I wished I had replied, "Which people are we talking about?"

Because once you truly realize how long some of us have tolerated these damaging culture norms, you wouldn't be arguing for comfort.

To take “anti-blackness” one step further: When I invited Eddie Moore, Jr., the founder of the White Privilege Conference, to my annual race and ethnicity conference he used the words white supremacy in his presentation. I watched people squirm in their seats.

Even I had an urge to say something to lessen the sting, but resisted.

“White supremacy” is a phrase that needs to be said and “anti-black racism” must be said, too.

The time has come to distinguish right from wrong. Racism is part of our country’s DNA. It doesn’t matter how much of a good person you think you are, we have all been made worse by an ingrained belief we caught that white is better, righter, smarter, and prettier, and this belief has created a system of power and privilege that benefits white people as a group and white males in particular.

Today is a new day. The cruel killings of Black people mostly unarmed and the brash and sadly resonating video of Amy Cooper, feigning fear of a Black birder who deigned to ask politely that she put her dog on a leash as required by the law, has changed our vernacular.

Today, all day, in one-on-one conversation with CEOs, in slide decks, group presentations, and social media, I get to use these words and phrases, from oppression and bias to institutionalized racism and white male privilege.

I get to explain how corporate, nonprofit, and government organizations have been shaped by racism – organizations in which Black people and other marginalized groups have to adeptly handle intentional and unconscious racist comments, and are tired and angry about the structural barriers they have to navigate just to show their capabilities.

I get to describe how these systems are operating exactly how they were intended – to preserve white culture and concentrate and maintain power in the hands of white males.

For years, the efficacy of diversity training has been debated.

Diversity training is helpful, but it’s time to move away from just “diversity” training because it hasn’t gotten us far enough or gone deep enough, quickly enough.

Let’s all agree that our schools, corporations, nonprofits, places of worship, and community organizations conduct anti-racism training with the goal of eradicating attitudes that keep us from seeing how our fates are inextricably connected.

And while we are at it, let’s name and do that work necessary to undo patriarchy, sexism and misogyny, xenophobia, ableism and queer and trans antagonism, too.

Anti-racism work doesn’t need to be divisive when we make it all of our business as a nation – and as a human race – to eliminate the deep disparities, violence and blatant disregard so many marginalized groups face daily.

We have an opportunity now to get out of the denial and rationalization around America’s history of racism, and make good on our American ideals.

Here are five steps companies can take to elevate the work necessary for achieving racial equity.

Listen: Find ways for leaders to listen to the lived experiences of BIPOC (Black, Indigenous and People of Color) and other underrepresented and traditionally marginalized groups.

Teach: Incorporate these learnings into conversations and trainings helping leaders to connect the dots from individual stories of racial bias, exclusion, and trauma to larger systemic issues informed by racism and other systems of oppression.

Learn and use the vocabulary: Opt-in conversations, speaker series, book clubs, presentations by Employee Resource groups are all ways to help people understand the history, experiences, impact and systems that underlie these terms. When the terms are unpacked and myths are debunked, these words aren't as scary. They are just the truth.

Evaluate systems: Examine your culture and practices (hiring, evaluation, promotion, succession, compensation, etc.) and the external systems that feed into them to determine how well they support or hinder equity. Make the short-term and long term interventions necessary to remove the barriers and support the success for BIPOC employees and other underrepresented groups.

Lean into the discomfort with compassion:

Recognize that part of making meaningful change around racism, etc. requires some discomfort. Trying to make people comfortable means we never look the problem squarely in the face and solve for it. This work is not about shaming or blaming individuals; it's about believing in people's courage to face the truth and equipping people with the knowledge and skills they need to be part of the solution.

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Read the original article on Business Insider (<https://www.businessinsider.com/netflix-verna-myers-inclusion-how-to-lead-dei-initiatives-training-2020-10>).

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What Does it Mean to Decolonize Design?

BY ANOUSHKA KHANDWALA

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“Decolonization” is a word we’re increasingly hearing at design events, often being used interchangeably with “diversity.” It’s important to emphasize that while the terms are linked, they shouldn’t be confused. Diversity is about bringing more people to the table. Decolonization is about changing the way we think. So what does that mean for design and designers?

To understand the place of decolonization within design, it’s vital to first get our terms straight. “Colonization” is rooted in indigenous peoples’ experiences of oppression – specifically, the seizure of native resources, as well as the embedding of Western ideology into society. The word “decolonization” was originally used to describe the withdrawal of a state from a former colony. Now, decolonization has come to represent a whole host of ideas: It’s an acknowledgement that in the West, society has been built upon the colonization of other nations, that we exist within a system of privilege and oppression, and that a lot of the culture we’ve come to see as ours has actually been appropriated or stolen.

Save for the editorial platform and research group Decolonising Design and a number of scholarly articles, there’s little readily accessible information online about what decolonizing means for design. So with this article we wanted to give an introductory overview of the concept, addressing the questions: How have colonial

histories affected the way in which we design? And what can we do to adjust our mindset and practices?

Decolonizing Design History

The work designers make is inspired by taste, and taste is often derived from what we’re exposed to during our upbringing. But design values and history is taught through a canon; that accepted pantheon of work by predominantly European and American male designers that sets the basis for what is deemed “good” or “bad.” The authority of the canon has undermined the work produced by non-Western cultures and those from poorer backgrounds so that Ghanaian textiles, for example, get cast as craft rather than design. Classifying traditional craft as different from modern design deems the histories and practices of design from many cultures inferior. We should aim to eliminate the false distinctions between craft and design, in order to recognize all culturally important forms of making. Design thinking rhetoric is similarly exclusive: To frame design thinking as a progressive narrative of global salvation ignores alternative ways of knowing.

Distinctions and divisions can “other” both designers and designs. Simba Ncube, a graphic design student and researcher at London’s Central Saint Martins, describes his experience of being labelled as a “Black designer.” “While identity and solace can be found in

the words, they still ‘other’ the practitioner and therefore their work,” he says. “When Western conventions are centred in design, this means that anything else is seen as ‘different.’” When a homogeneous group of people decide what’s “good,” it’s detrimental to the profession, and results in the majority of people striving towards a similar style.



Ncube’s research explores one example of colonialism’s effect on design standards; specifically, he explores its influence on ideas of perception. In the West, linear perspective is taught to be the best way to approximate space, but it’s not the only effective way that people have drawn in 3D historically. “Japanese perspective is only based on one plane, not x, y and z as with linear perspective, yet it’s hugely valuable way of creating an image,” he says. “Our reliance on western culture inhibits our ability to incorporate other standards.”

Ncube also cites an example of a culture that doesn’t design using perspective at all. Zulus live in what has been described as a “circular culture.” Their huts are round, they don’t plough land in straight furrows but in curves instead, and their villages are designed in circular formations. In finding such successful solutions for the organization of private and communal space, Zulu architecture should be understood as design innovation. Realizing that the standards we’ve been taught are not universal is key to decoloniality. And it’s not easy: Ncube likens the process of unseeing Western culture as getting a “fish to understand that it’s in water.”

Decolonizing Design Values

For educator and designer Danah Abdulla, one member of the research group Decolonising Design,

“decoloniality is about shattering the familiar.” She says that design today “does not disrupt the status quo, it does not disorder the established order.” Recognizing that capitalism “is an instrument of colonization,” and therefore that it’s almost impossible to truly decolonize in Western society at present, she says that decoloniality is about reimagining something beyond the current system we exist in. Abdulla and her group’s co-founders have written extensively on the colonial systems within which contemporary design operates.

In everyday design work, to “shatter the familiar” might start by rethinking the needs of the audience you’re designing for. For example, have you considered how people of different ethnicities may identify with what you’re creating? An aspect of decoloniality is questioning how solutions might be experienced in someone else’s shoes.



typefaces. Many designers will spring for a certain font because it’s “timeless.” But will a diverse audience see it the same way? Clara Balaguer of the Filipino publishing imprint Hardworking Goodlooking proposes the following exercise for “the Comic Sans, design-educated haters” in an interview with Walker Art’s The Gradient: “Use Comic Sans, Curlz, Brush Script, Papyrus. Understand why people respond to it. Accept that social constituencies (not clients but constituencies) have made a choice that should be respected instead of ridiculed [...] Challenge yourself to dismantle what the (Ivy League?) man has told you is ugly, uncouth, primitive, savage.”

While reconsidering the formal elements with which you design, it’s also important to recognize when to use certain imagery and how to engage with images

respectfully. The tea packaging design for the UK's East India Company, which uses patterns found on traditional Indian fabric, is one example of careless design appropriation. The East India Trading Company has historically played a huge role in exploiting India's resources, so for a company to continue to appropriate the culture of a nation that it historically stole from is irresponsible.

Decolonizing Design Work

Designers are trained to be chameleons: We shape ourselves to whatever brief comes our way. But there are certain situations where we cannot begin to identify with the lived experiences of the audience we need to communicate with. It's in these moments that we need to take ourselves out of the equation as the creative. For example, if an organization exists in the United States that is for and run by Black immigrants, surely the designer communicating its messaging should reflect the organization's identity?

To avoid taking charge of another's narrative, or appropriating what isn't yours, recognize when a project is not yours to take. When it's not, promote someone more appropriate to take your place. If the project is for a nonprofit venture, after taking yourself out of the creative arena, help fund the effort. In an industry like design, there's a great disparity between those who learn design and those that get paid for work. Therefore taking yourself out of the equation can be an opportunity to ensure people from marginalized backgrounds get a place in the creative community.

PROMOTE!

And it's not just about knowing when a brief is yours to take: There are ways to integrate a process of decoloniality into your everyday practice. Working with minority owned printers, for example, is one way of decolonizing design labor: a social post from educator Silas Munro has recently highlighted a number of US printers run by minorities. A resource from Amelie Lamont and Timothy Goodman also makes it easier to find practitioners of color to hire/collaborate with. And it's not just who you work with, but also how you collaborate. For studios, agencies, and any others hiring for a project, make sure to not only pay your freelancers' worth but also that the culture of your company is welcoming to them. If you hire a person of color, make sure that they won't be faced with daily microaggressions. This aspect of decolonization overlaps with diversity and inclusion; it's important not just to bring people to the table, but also to ask yourself, what sort of seat are you offering?

Ultimately, there is no finite end that we're trying to reach: Decolonization is a process. The fact that it's a journey means that in order to keep evolving, we must be continually curious, and educate ourselves about what we haven't experienced directly.

"For far too long, designers have remained married to the concept that what we do is neutral, universal, that politics has no place in design," says Abdulla. Yet the choices we make as designers are intrinsically political: With every design choice we make, there's the potential to not just exclude but to oppress; every design subtly persuades its audience one way or another and every design vocabulary has history and context. Learning about the history of colonialism will open our eyes to how power structures have formed society today, and how they dominate our understanding of design.

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ADDITIONAL RESOURCES

<http://gal-dem.com/native-american-people-exist-outside-public-holidays/>

<https://www.theguardian.com/commentisfree/2017/oct/27/decolonise-elite-white-men-decolonising-cambridge-university-english-curriculum-literature>

<https://www.huffpost.com/entry/its-not-enough-to-recognize-your-privilege-youve-got-to-use-it>

<http://theconversation.com/cultural-appropriation-theft-or-fair-exchange-74892>

<http://decolonisingdesign.com/>

<https://contempaesthetics.org/newvolume/pages/article.php?articleID=670>

<https://www.dabdulla.com/>

<https://www.decolonisingdesign.com/actions-and-interventions/publications/2018/what-a-decolonisation-of-design-involves-by-ahmed-ansari/>

<https://walkerart.org/magazine/troll-palayan-clara-balaguer-on-design-decolonization-trolling-duterte>

<https://www.theeastindiacompany.com/shop/fine-foods/tea/>

<https://lareviewofbooks.org/article/blighted-by-empire-what-the-british-did-to-india/#!>

<https://www.instagram.com/p/Bu5lFKrlOyL/>

<https://twitter.com/siborg81/status/1105381624856875008>

<http://www.peopleofcraft.com/>

Federal Contractors Program

GOVERNMENT OF CANADA

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The Labour Program administers and enforces the Federal Contractors Program (FCP).

FCP requires that organizations who do business with the Government of Canada implement employment equity in their workplace. This includes ensuring their workforce is representative of Canada's labour force with respect to the 4 designated groups under the *Employment Equity Act*:

- women
- Indigenous peoples¹
- persons with disabilities
- members of visible minorities

Who does the FCP apply to

The FCP applies to organizations that have:

- a combined workforce in Canada of 100 or more permanent full-time or permanent part-time employees, and
- received an initial federal government goods or services contract valued at \$1 million or more (including applicable taxes)

The FCP does not apply to:

- private-sector employers under federal jurisdiction
- contracts for the purchase or leasing of real property, or
- construction or legal service contracts

What are the FCP requirements

To bid on an eligible contract, organizations must enter into an Agreement to Implement Employment Equity (AIEE). The AIEE goes beyond the life of the original contract and is an ongoing obligation.

An organization that receives an eligible contract must meet the following requirements:

- collect and maintain workforce information, including representation of the 4 designated groups
- conduct a workforce analysis and complete an achievement report
- establish short-term and long-term numerical goals and begin actions that will identify and remove employment barriers
- make reasonable efforts towards having a workforce that is representative of the 4 designated groups

Role of the Labour Program

As administrator of the FCP, the Labour Program is responsible for:

- promoting the importance of employment equity
- providing information, tools and guidance and working with organizations to fulfill their obligations
- assigning AIEE numbers to new organizations
- conducting scheduled compliance assessments (<https://www.canada.ca/en/employment-social->

- development/corporate/portfolio/labour/programs/employment-equity/federal-contractors/compliance-assessment.html)
- engaging contracting authorities for program evaluation purposes
 - informing contracting authorities so that ineligible organizations do not receive contracts for goods or services
 - offering information and advice to government officials regarding the FCP maintaining the FCP List of Certified Employers on GCpedia² for contracting authorities. This list provides the names of organizations and their assigned AIEE numbers maintaining the FCP Limited Eligibility to Bid list (<https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/employment-equity/federal-contractors/compliance-assessment.html>). This list identifies organizations that should not receive future federal goods or services contracts by reason of either:
 - being non-compliant following the Labour Program's compliance assessment, or
 - having withdrawn from the FCP

For more information, consult the FCP compliance requirements (<https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/employment-equity/federal-contractors/compliance-assessment.html>).

Role of government contracting authorities

The Government of Canada contracting authorities solicit bids and award goods and services contracts. Contracting authorities are responsible for ensuring that organizations receive information about the FCP prior to awarding any contract. The contracting authority's role is to:

- request and obtain a signed Agreement to Implement Employment Equity (LAB1168) (AIEE) (<https://catalogue.servicecanada.gc.ca/content/EForms/en/Detail.html?Form=LAB1168>) form or obtain the current AIEE number issued by the Labour Program. The AIEE must be signed by an

- authorized executive of the organization
- verify the accuracy of the AIEE number by comparing it with the number listed in the FCP List of Certified Employers
 - clarify with the organization if the AIEE number cited does not match the number on file.
 - The Labour Program (https://srv144.services.gc.ca/cgi-bin/ContactForm-FormulaireContact/index.aspx?GoCTemplateCulture=en-CA§ion=empl_equity) will resolve any issues with the AIEE, as required
 - obtain approval from senior management before awarding a contract to an ineligible organization who can solely perform the work. The contracting authority should:
 - ensure the contractor commits to reinstatement under the FCP, and
 - contact the Labour Program accordingly
 - forward the organization's AIEE information to the Labour Program within 30 days following the contract award date, and
 - on request, provide details of relevant contracts to enable the Labour Program to administer and monitor the FCP

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ADDITIONAL RESOURCES

About the Workplace Equity Program

Employment: <https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/employment-equity.html>

Equity Achievement Awards:

<https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/employment-equity/achievement-awards.html>

Employer resources and tools on employment equity:

<https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/employment-equity/tools-resources.html>

FOOTNOTES

- {1} Unless the context requires the use of the term Aboriginal peoples as it appears in the *Employment Equity Act* or as part of a proper name, the Labour Program uses the term Indigenous peoples.
- {2} GCpedia is accessible only from a Government of Canada network.

Special Programs

GOVERNMENT OF ONTARIO

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This section allows organizations and employers to create temporary special measures on a voluntary basis. The purpose of a special program is to help create opportunities for people who experience discrimination, economic hardship and disadvantage.¹

Landlords, service providers and other organizations may start their own special programs. No special or advance approval by the OHRC is needed. The OHRC encourages the development of special programs as an effective way to help reduce discrimination and address historical disadvantage. Organizations can learn more about how to develop special programs from the OHRC's publication *Special programs and the Ontario Human Rights Code – A self-help guide*.

To be a special program, the program must meet one of the following conditions:

- it must relieve hardship or economic disadvantage, or
- help disadvantaged people achieve, or try to achieve, equal opportunity, or
- help eliminate discrimination.

If a special program does not meet one of these conditions, it may be deemed invalid by the OHRC, the Tribunal or another judicial body.

Examples of special programs include:

- programs designed to promote the hiring and advancement of women in a welding shop
- programs designed to encourage the enrolment of Aboriginal students in a university.

An organization may be required to create a special program as a result of a human rights claim made against them.

Special programs must be developed carefully and with clear reasons about why a particular group is chosen for special assistance.

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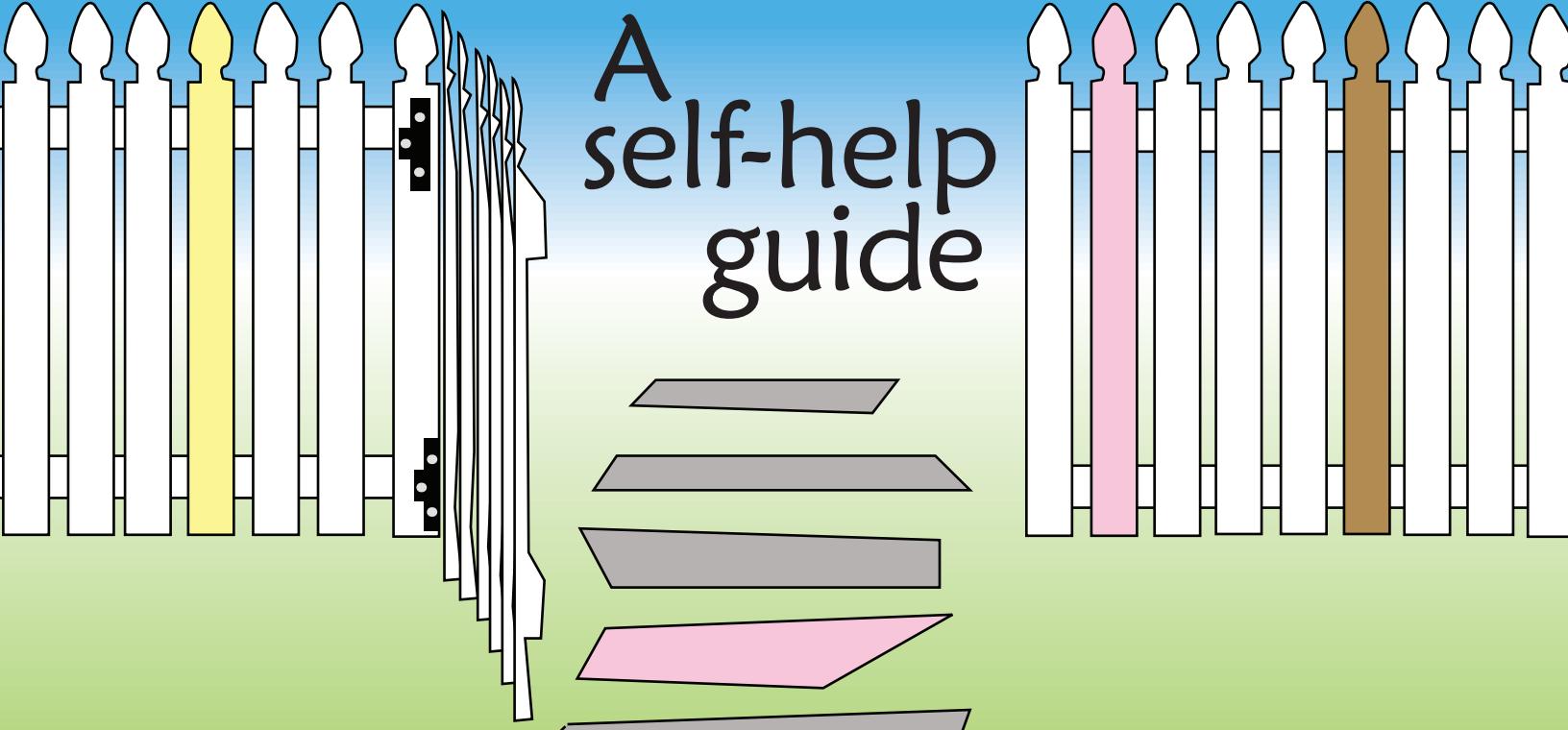
FOOTNOTES

{1} See the OHRC's *Special programs and the Ontario Human Rights Code – A self-help guide* (2010).

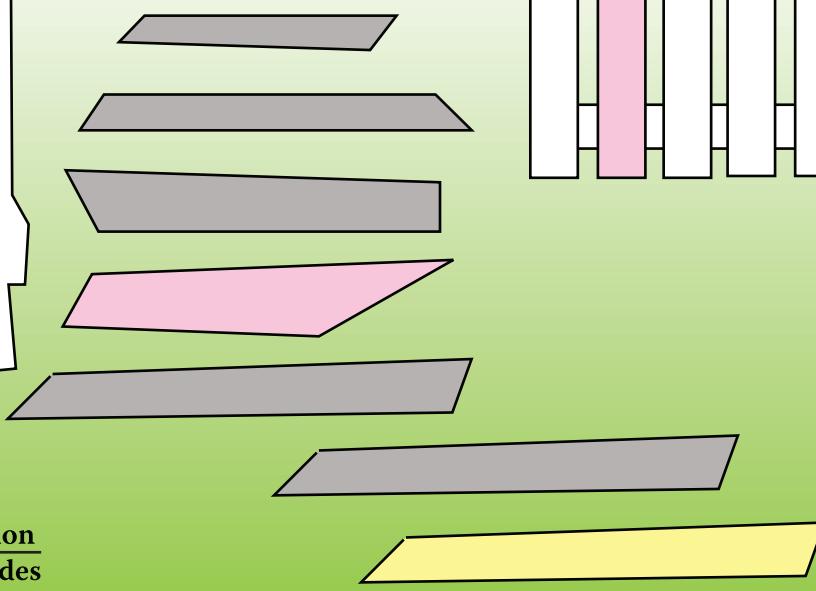


SPECIAL programs

and the
Ontario Human Rights Code



A
self-help
guide



Ontario
Human Rights Commission
Commission ontarienne des
droits de la personne

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What are special programs?

The purpose of the Ontario *Human Rights Code* is to create a climate of understanding and mutual respect for the dignity and worth of each person, so that each person feels a part of the community and feels able to contribute to the community. It gives everyone the right to equal treatment in employment, housing, goods, services and facilities, contracts, and membership in unions, trade or occupational associations or self-governing professions based on *Code* grounds. Everyone is entitled to equal treatment in these areas based on their:

- Race, colour or ethnic background
- Religious beliefs or practices
- Ancestry
- Place of origin
- Citizenship
- Sex (including pregnancy and gender identity)
- Family status
- Marital status, including those with a same-sex partner
- Disability
- Sexual orientation
- Age
- Receipt of public assistance (in housing) and record of offences (in employment)

All organizations are required to prohibit unfair treatment based on *Code* grounds and must remove barriers that cause discrimination and stop it when it occurs. Organizations can also choose to develop “special programs” to help disadvantaged groups improve their situation. The *Code* and the Canadian *Charter of Rights and Freedoms*¹ both recognize the importance of dealing with historical disadvantage by protecting special programs to assist marginalized groups. The Supreme Court of Canada has also said special programs should be protected.² The *Code* allows for programs designed to help people who experience hardship, economic disadvantage, inequality or discrimination, and protects these from attack by people who do not experience the same disadvantage. This guide describes the use of special programs, clarifies when they are allowed, and identifies how they could be designed. The OHRC encourages the development and use of special programs as effective ways to meet particular needs, help reduce discrimination, and correct historical disadvantage.

¹ Section 15(2) of the *Canadian Charter of Rights and Freedoms* outlines the protection of affirmative action programs, to prevent them from being attacked by people who are excluded from the programs' purpose.

² Most recently, in *R. v. Kapp*, (2008) 2 S.C.R. 483, the Court ruled that a commercial fishing license provided to three Aboriginal bands to allow fishing on one extra day of the year was not discrimination under the *Charter and Rights of Freedoms* because its object was to ameliorate the conditions of a disadvantaged group under section 15(2) of the *Charter*.

Organizations do not need permission from the OHRC to develop or designate a special program. This means that special programs can be put in place without delay.

What the Code says

Under Section 14 of the *Code*, it is not discrimination to put in place a program if it is designed to:

- Relieve hardship or economic disadvantage
- Help disadvantaged people achieve, or try to achieve, equal opportunity or
- Help eliminate discrimination

A program must satisfy at least one of these points to be a special program under the *Code*. There are many types of programs that might qualify.

For example:

- A housing co-op keeps a set number of spaces for women who are leaving abusive relationships
- The government funds a job program for persons under 25 to combat youth unemployment, because a Statistics Canada study shows that youth under 25 face higher rates of unemployment than other groups
- A government-funded community legal clinic offers its services only to people with disabilities, to help them fight some of the systemic barriers they face.

The OHRC, Human Rights Tribunal of Ontario (HRTO) and the courts can determine which programs are allowed as special programs under the *Code*.

Why are special programs protected?

In the case of the *Ontario Human Rights Commission v. Ontario (Roberts)*, the Ontario Court of Appeal said that section 14 of the *Code* has two purposes:

1. Protecting **affirmative action programs** from challenge by people who do not experience disadvantage.
2. Promoting **substantive equality** to address disadvantage and discrimination in all its forms.

Protecting affirmative action

At one time, "equality" meant that everyone should receive the same or similar treatment. This is often referred to as "formal equality." The problem is that "formal equality" ignores historical and ongoing barriers, doesn't allow for special needs, and can even continue inequality for certain groups.

The first purpose of section 14 is to make sure that special programs, properly designed to help a disadvantaged group, cannot be challenged by people who do not face the same disadvantage. In legal terms, section 14 protects special programs from challenges based upon "formal equality" principles.

Example: A corporation sets up a scholarship fund to provide financial help to people with disabilities entering post-secondary education. The corporation's rationale is that people with disabilities have been traditionally under-represented in higher education and face greater financial barriers than other groups because of costs related to their disabilities. This program makes a distinction based on disability that would be prohibited under section 1 of the *Code*. But the purpose of section 14 to protect "affirmative action" type programs works to prevent people who do not have disabilities from successfully claiming that their human rights have been violated because they are outside the disadvantaged group that the scholarship is designed to help.

Example: A community rape crisis centre only provides services to women and transgender women (people who have changed their gender identity from male to female) based on studies and statistics that show that women are more likely to experience sexual assault than men.

In both of these examples, the organizations could use section 14 as a legal defence if their program was challenged.

Promoting substantive equality

The second purpose of section 14 is to promote substantive equality.

"Substantive equality" means understanding and meeting the needs of disadvantaged persons or groups using historical, legal and social contexts. It takes into account discriminatory barriers in their many forms, not all of which are obvious or intended. For example, discrimination may be built into an organization's behaviour, practices and policies. That can lead to a genuine disadvantage for some people based on a *Code* ground. This is called *systemic* or *institutional discrimination*. Organizations and institutions have an obligation to be aware of these forms of discrimination. When systemic discrimination is found to exist, an organization must change its practices.

Developing and protecting good special programs is an additional way that organizations can address systemic discrimination and promote substantive equality by allowing some disadvantaged groups to benefit in a targeted way.

In the *Roberts* case, the Ontario Court of Appeal said: "...Substantive equality requires a positive action to ameliorate the condition of soundly disadvantaged groups."

Example: A police service recognizes that it does not look like the racially diverse community it serves. Most of its higher ranking officers are from non-racialized groups. If people from racialized groups (communities facing racism) join the service, they are less likely to be promoted and more likely to quit early on. The service relies on recruits to find more experienced officers to mentor them, which helps them in moving up in the ranks. However, people from racialized groups have trouble finding mentors. The service creates a special program to help officers from racialized groups take part in formal mentorship opportunities.

The Court also cautioned that:

"Special programs aimed at assisting a disadvantaged individual or group should be designed so that restrictions within the program are rationally connected to the program. Otherwise, the provider of the program will be promoting the very inequality and unfairness it seeks to alleviate."

Example: A government program gives financial help to people with visual disabilities so they can buy equipment to help them. However, only people under age 30 can apply. This exclusion could be challenged. The government would have to justify why an age limit is relevant.

Special programs and the duty to accommodate

Employers, service providers and landlords all have a duty to accommodate the needs of individuals because of disability, creed, family status and other grounds, to the point of "undue hardship."

In some cases, what may appear to be a special program is in fact part of the duty to accommodate under the *Code*. Such programs should not be considered special programs.

Example: A transit provider sets up a para-transit bus service so people with disabilities, who face barriers on the conventional system, have access to public transit service already available to people without disabilities. This makes the para-transit system part of the duty to accommodate rather than a special program.

Special programs and other exceptions in the Code

In addition to section 14, some other sections in the *Code* allow preference to be given to specific groups if certain criteria are met. The special interest organization (section 18), special employment (section 24) and the age 65-and-over provisions (section 15) all lay out special exceptions or defences to the right to be free from discrimination under Part I of the *Code*. However, these differ from section 14 in the following ways.

Section 14 applies where a program is the issue and a need can be demonstrated. Section 18 deals with membership in an organization. Section 24 applies only to preferential employment, where identifying with a *Code* ground is a genuine qualification for the job. The age 65-and-over (section 15) provision of the *Code* allows preference to be given to people in that age group without a reason.

Sometimes, different parts of the *Code* may apply to the same organization, but in different ways:

Example 1: A social recreation centre that offers workout facilities, a pool, daycare service, reading library and a café restricts its membership and services to women and transgender women (someone who has changed their gender identity from male to female). This would likely be protected under section 18 of the *Code* as a “special interest organization” or possibly under section 20(3) as a “recreational club.”

Example 2: The women’s centre gives preferential treatment to its members aged 65 and over by providing them with discounted membership rates. It can do this under section 15 of the *Code*.

Example 3: The women’s centre also provides life-skills and counselling programs exclusively to its members who are refugees to Canada and have experienced trauma and abuse. Using research to show that this group is much more disadvantaged than others, it justifies this service restriction as a “special program” under section 14 of the *Code*.

Example 4: The centre restricts hiring qualified counsellors for its life-skills and counselling programs to women. It can do this under the “special employment” (section 24) provisions of the *Code*.

Guidelines for developing special programs

A good plan for a special program should be developed through consultation and identify a rationale, supporting data, eligibility criteria and an evaluation method. With these in place, a program may be less likely to face legal challenges by people who think it is discriminatory under Part 1 of the *Code*, and can be better defended as a “special program” if necessary.

Landlords, service providers and other organizations may start their own special programs. No special or advance approval by the OHRC is needed.

Consultation

Always consult the people who might be affected by the proposed special program. Include individuals and groups targeted by the program, labour unions or employee associations, tenant associations, service users or community organizations. Here are things to keep in mind when making a plan.

Developing a rationale for the program

The rationale for a special program is simply the reason it is being created. The rationale serves as a principle upon which to design the rest of the program. This makes it easier to develop the eligibility criteria and make a meaningful evaluation of the program once it has been started. A clear rationale also makes the program easier to understand for the people using it.

A good rationale will:

- Identify who will benefit from the program
- Provide reasons why the target audience is considered to be experiencing hardship, economic disadvantage, inequality or discrimination. Evidence should be objective not subjective, and should not be based on personal impressions. Remember, there must be a real problem and evidence to show that the problem exists. Often, there is readily available research such as Census data that can help define the problem. Sometimes, data collection might be necessary
- Explain how and why the program should help relieve the hardship, economic disadvantage, inequality or discrimination, including benefits, goals, timetables and expected results
- Show the expected time period for the program.

Example: After studies showed that people of South Asian origin with low-income have trouble getting access to the justice system, the government creates and funds a legal clinic to give free legal advice and representation to this group. A possible rationale behind the program is to help make it easier for this group to get legal representation in response to their disadvantage in the justice system.

A clear rationale can help an organization set goals for the program and criteria to evaluate the progress of the program to know when the goals have been met (see the section, *Evaluating a Special Program*).

Data collection

As a rule, using questions relating to prohibited grounds as criteria for offering employment, services, housing, contracts or membership in vocational associations is discrimination under Part 1 of the *Code*. However, the *Code* allows collecting data to monitor, evaluate and address systemic or other forms of discrimination.

Collecting qualitative or quantitative data is a good way to see if a special program is needed. Data can be collected to see if certain groups are under-represented or if other forms of hardship, inequality or disadvantage exist.

Example: Before expanding and hiring new staff, an employer conducts a work survey to see whether its workers reflect the community it serves. Employees are asked to identify themselves by sex, race, disability, creed, etc. and to submit the information anonymously. Based on the results, the company makes efforts to recruit more women into management positions.

An organization may want to periodically collect data to measure the results of special programs, and help an organization decide whether to expand the program, disqualify people who no longer need it or discontinue the program when the equity goals have been met.

Example: An organization sets up a four-year special program to offer housing to homeless people with mental health disabilities and addictions. Data was collected during the course of the program and at the end to see if the residents experienced greater quality of life, employment or volunteer prospects and improved physical and mental health. Based on the results, the organization changes its goals by continuing the program and offering additional supports to its older male clients.

An organization might also collect data to examine if its employment and service practices are equitable, or to deal with a problem known in the organization or in the sector. Data collection for these purposes can help organizations to identify and eliminate possible *Code* infringements.

Example: A school board is aware of research in other jurisdictions showing the negative impact of “safe school” discipline policies on racialized students and students with disabilities. Parents of some students from these groups have raised concerns with the school board about their children being disciplined inappropriately. The school board wants

to find out if this is a systemic problem. It designs a data collection program to record the race and disability of students along with the nature of the infraction and the form of discipline, to see if any discriminatory treatment exists.

The Code does not say how to collect data. However, there are some good methods to identify groups within, or served by, an organization:

- Self-identification surveys
- Use of a trained employee or external expert to record data through observation
- Use of an external consultant or expert to collect the data.

Anonymous and voluntary self-identification surveys are usually a good way to collect information, but organizations should choose the method that works best for them.

Privacy and dignity should always be a concern when collecting data. Organizations subject to freedom of information and privacy legislation should make sure that the method they choose complies with the relevant laws.³ Organizations should collect data in a way that respects dignity and privacy and should develop internal policies on privacy. Assuring anonymity may be needed to address privacy and confidentiality concerns. Service providers, employers, landlords and other responsible bodies should consult with affected communities about the need for data collection and appropriate methodology.

Participants must always be told why data is being collected, how it will be used, the benefits of taking part and the privacy and confidentiality steps that will be taken to protect their information. Data collected for special programs must be used for special program purposes only.

For more detailed information, please see the OHRC's publication *COUNT ME IN! Collecting human rights-based data*, available on the OHRC's website at www.ohrc.on.ca.

Eligibility criteria

The rationale for the program will guide who will be eligible to take part. As noted earlier, special programs must have criteria that only relate to the purpose of the program and they cannot discriminate based on other grounds in the Code.

Very narrow criteria severely limit who can take advantage of the program. This might defeat the rationale behind the program by excluding people it was meant

³ Applicable privacy laws include Ontario's Provincial Freedom of Information and Protection of Privacy Act and Municipal Freedom of Information and Protection of Privacy Act or the federal Personal Information Protection and Electronic Documents Act. More information is available from the Office of the Information and Privacy Commissioner.

to help. On the other hand, criteria that are too broad might result in providing benefits to people who don't need them.

Example: Studies show that people of South Asian origin with low income have trouble gaining access to the justice system. The government funds a legal clinic to provide free legal advice and representation to this group.

Criteria too broad: In deciding who could use their services, the legal clinic could help anyone of South Asian origin. However, this would be over-inclusive, because it would allow people with medium and high incomes to benefit. This would partially defeat the rationale behind the program, which is to help people of South Asian origin with *low income*.

Criteria too narrow or not related to the purpose: The legal clinic could offer services only to people whose income is below a certain level, who identify as South Asian, and who belong to a certain creed. These criteria would be too narrow, since the program is designed to help all South Asian people with low income and allowing people of only one religion to qualify would leave out other South Asian people with low income. The program could also be challenged under the *Code* as discriminatory against people based on creed.

People are protected from discrimination when they take part in a special program, just as they are when receiving a service that is not a special program. Rules or restrictions placed on people participating in the special program must not disadvantage people based on *Code* grounds.

Special programs often have limited resources. The temptation may be to restrict eligibility to put less strain on these resources. But financial limitations alone will not remove the obligation to justify the connection between eligibility and the reason for the program. Resources must be allocated in a way that furthers the purpose of the program and is in line with the intent of the *Code*.

Above all, the eligibility criteria should flow naturally from the rationale based on its supporting evidence. Criteria that are not clearly related to the purpose of the program will likely infringe Part 1 of the *Code*.

Also, even though the goal of a special program is to help people from *Code*-protected groups, it is important to note that taking part in a special program is not compulsory.

Finally, people should be told that a special program exists, the restrictions or limits on who is eligible, and whether the program is for services, a job or for housing.

Example: Advertisements for a government job program for youth under age 25 clearly explain to potential applicants and the public that

the employment is part of a special program designed to help disadvantaged youth.

Evaluating a special program

Monitoring a special program is important because it can help to:

- Evaluate its effectiveness
- Identify opportunities for improvement and growth
- Facilitate accountability within the organization
- Justify requests for more funding
- Communicate program results to the organization and its clients
- Get the support of key decision-makers and stakeholders.

Assessing how well a program is working and how it is helping may also require data collection, described earlier.

Example: A community mental health organization and a bank set up a special program for people with severe mental health disabilities who receive social assistance. The program helps them to open a no-fee bank account. The program rationale shows that some people with mental health disabilities face financial and other barriers to opening up regular bank accounts, which contribute to social isolation.

The goal of the special program is to help people with mental health disabilities by improving banking access. The organizations set criteria to meet this goal by targeting to reach a minimum number of participants. They also plan to ask participants if they feel more financially secure and have more personal control over their financial affairs.

The organizations use qualitative and quantitative data to evaluate the program. They find that participants increased their income, were able to buy more groceries, could better manage paying their bills and felt they “belonged” in their community. Based on this information, the organizations decide that the program has met its goal and consider expanding it to different regions.

Addressing concerns about special programs

A special program is in line with the values of the Code, if it meets the criteria described above. However, some questions and concerns may arise about an organization’s decision to set up a special program. One question that an organization may encounter is, “*Will the special program lead to “reverse discrimination” where less qualified people are employed or assisted?*”

It is common to see resistance to special programs based on the perception they just change who is being discriminated against. Special programs must respond to a proven need and real disadvantage. Systemic discrimination is often hidden; people from historically disadvantaged groups (for example, people from racialized groups, women, and people with disabilities) are often unable to get the same opportunities as others. Special programs help level the playing field.

Organizations should set out the purpose and goals of a special program and identify how processes such as hiring and promotion will be made clear and will be based on merit. Organizations may need to invite questions and get feedback from people inside and outside the organization to encourage support.

Example: A school board has collected data and found that very few of its teachers have First Nations, Métis or Inuit heritage, as compared to its student body. It creates an employment equity program, aimed at building a large pool of candidates of teachers with Aboriginal ancestry it can hire into available positions. In designing the program, it consults with many different groups, including unions, teacher's colleges, parents, staff and people in the local Aboriginal and non-Aboriginal communities. It sets clear short and long-term goals to bring up representation. It provides regular updates on the progress of the program through school board meetings and its annual report.

Another question an organization may encounter is, “*Can a special program be designed for some people within a Code-protected group, and not others?*”

Yes. Special programs should be designed to meet the specific and pressing needs of particular groups. It may be that a program is especially needed in a certain context. An organization has the right to choose which special program will work best, depending on the needs of the individuals it is trying to serve. This may mean designing a program for just *some* of the people within an already marginalized Code-protected group.

Example: A community centre serving people who are lesbian, gay, bisexual and transgender (LGBT) wants to set up a support group for bisexual people and people questioning their sexuality to talk about issues of biphobia (the irrational fear of people who are bisexual). The community centre is responding to concerns from its bisexual clients that they feel invisible and face stereotypes within both the heterosexual and LGBT communities.

As noted earlier, restrictions on who is eligible for the program must be supported by the evidence and the rationale. Special programs cannot leave out people from a group who may benefit from the program without reason.

An organization can overcome objections to special programs by following the elements of this guide: developing a good rationale, providing evidence of a problem, setting requirements that do not unnecessarily exclude individuals, and checking how well the program is working. Organizations should clearly communicate the rationale, explain the benefits, and provide updates on the progress being made.

Special program guidelines checklist

The information above is intended to help you understand special programs and some of the criteria required for a program to qualify under section 14 of the *Code*. It is important to know this information before planning and starting a special program. If in doubt, seek legal advice. Below is a checklist to help you.

Program rationale

- The target group or groups intended to benefit under the program are defined
- The problem experienced by the target group is defined
- The defined problem is related to hardship, economic disadvantage, discrimination or achieving equal opportunity for the target group
- There is evidence of the problem
- Goals have been identified for the program
- The benefits provided by the program are designed to help fix the defined problem and meet the goals
- The program has been designed to help disadvantaged groups beyond the organization's duty to accommodate people under the *Code*
- The proposed length of the program has been identified, if appropriate

Data collection

- A method for accessing existing data or collecting new data needed for determining the rationale for the program, and ongoing monitoring and evaluation, has been created
- Any data collection needed has been done, taking into account anonymity and confidentiality concerns
- The way data is collected complies with the relevant privacy requirements of the organization and relevant legislation

Eligibility requirements

- Specific eligibility criteria for people who can benefit from the program have been defined
- Each eligibility requirement, especially those based on prohibited grounds, relates directly to the rationale of the program
- The eligibility criteria are not too broad (do not include groups not intended to benefit)
- The eligibility requirements are not too narrow (do not prevent persons the program was intended to benefit from qualifying)
- Criteria are directly related to the rationale of the program, regardless of any cost limitations

- The program does not discriminate against its participants either intentionally or unintentionally
- A way of advertising the eligibility criteria to relevant stakeholders has been set up

Evaluating the program

- A way of measuring the effectiveness of the program has been designed
- Any data needed to evaluate the program goals have been defined
- Ways of modifying the program in response to the results of the data collected have been considered
- The length of the program has been defined or criteria that would signify the program has run its course have been specified

Planning and consultation

- Relevant stakeholders and the community affected have been identified and consulted and their views have been included in the design of the program
- A plan for implementing the program based on the guidelines has been created
- Any ongoing human resource strategies for managing the program, such as staff training, have been laid out
- Where appropriate, a plan has been developed to communicate to targeted groups, other employees, clients, and the public about the goals and the implementation of the program and address any concerns

Section 14 of the Code

Special programs

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. R.S.O. 1990, c. H.19, s. 14 (1).

Application to Commission

(2) A person may apply to the Commission for a designation of a program as a special program for the purposes of subsection (1). 2006, c. 30, s. 1.

Designation by Commission

(3) Upon receipt of an application, the Commission may,

- (a) designate the program as a special program if, in its opinion, the program meets the requirements of subsection (1); or
- (b) designate the program as a special program on the condition that the program make such modifications as are specified in the designation in order to meet the requirements of subsection (1). 2006, c. 30, s. 1.

Inquiries initiated by Commission

(4) The Commission may, on its own initiative, inquire into one or more programs to determine whether the programs are special programs for the purposes of subsection (1). 2006, c. 30, s. 1.

End of inquiry

(5) At the conclusion of an inquiry under subsection (4), the Commission may designate as a special program any of the programs under inquiry if, in its opinion, the programs meet the requirements of subsection (1). 2006, c. 30, s. 1.

Expiry of designation

(6) A designation under subsection (3) or (5) expires five years after the day it is issued or at such earlier time as may be specified by the Commission. 2006, c. 30, s. 1.

Renewal of designation

(7) If an application for renewal of a designation of a program as a special program is made to the Commission before its expiry under subsection (6), the Commission may,

- (a) renew the designation if, in its opinion, the program continues to meet the requirements of subsection (1); or

- (b) renew the designation on the condition that the program make such modifications as are specified in the designation in order to meet the requirements of subsection (1). 2006, c. 30, s. 1.

Effect of designation, etc.

(8) In a proceeding,

- (a) evidence that a program has been designated as a special program under this section is proof, in the absence of evidence to the contrary, that the program is a special program for the purposes of subsection (1); and
- (b) evidence that the Commission has considered and refused to designate a program as a special program under this section is proof, in the absence of evidence to the contrary, that the program is not a special program for the purposes of subsection (1). 2006, c. 30, s. 1.

Crown programs

(9) Subsections (2) to (8) do not apply to a program implemented by the Crown or an agency of the Crown. 2006, c. 30, s. 1.

Tribunal finding

(10) For the purposes of a proceeding before the Tribunal, the Tribunal may make a finding that a program meets the requirements of a special program under subsection (1), even though the program has not been designated as a special program by the Commission under this section, subject to clause (8) (b). 2006, c. 30, s. 1.

Purpose of OHRC Policies

Section 30 of the Ontario *Human Rights Code* (*Code*) authorizes the Ontario Human Rights Commission (OHRC) to prepare, approve and publish human rights policies to provide guidance on interpreting provisions of the *Code*.⁴ The OHRC's policies and guidelines set standards for how individuals, employers, service providers and policy-makers should act to ensure compliance with the *Code*. They are important because they represent the OHRC's interpretation of the *Code* at the time of publication.⁵ Also, they advance a progressive understanding of the rights set out in the *Code*.

Section 45.5 of the *Code* states that the Human Rights Tribunal of Ontario (the Tribunal) may consider policies approved by the OHRC in a human rights proceeding before the Tribunal. Where a party or an intervenor in a proceeding requests it, the Tribunal shall consider an OHRC policy. Where an OHRC policy is relevant to the subject-matter of a human rights application, parties and intervenors are encouraged to bring the policy to the Tribunal's attention for consideration.

Section 45.6 of the *Code* states that if a final decision or order of the Tribunal is not consistent with an OHRC policy, in a case where the OHRC was either a party or an intervenor, the OHRC may apply to the Tribunal to have the Tribunal state a case to the Divisional Court to address this inconsistency.

OHRC policies are subject to decisions of the Superior Courts interpreting the *Code*. OHRC policies have been given great deference by the courts and Tribunal,⁶ applied to the facts of the case before the court or Tribunal, and quoted in the decisions of these bodies.⁷

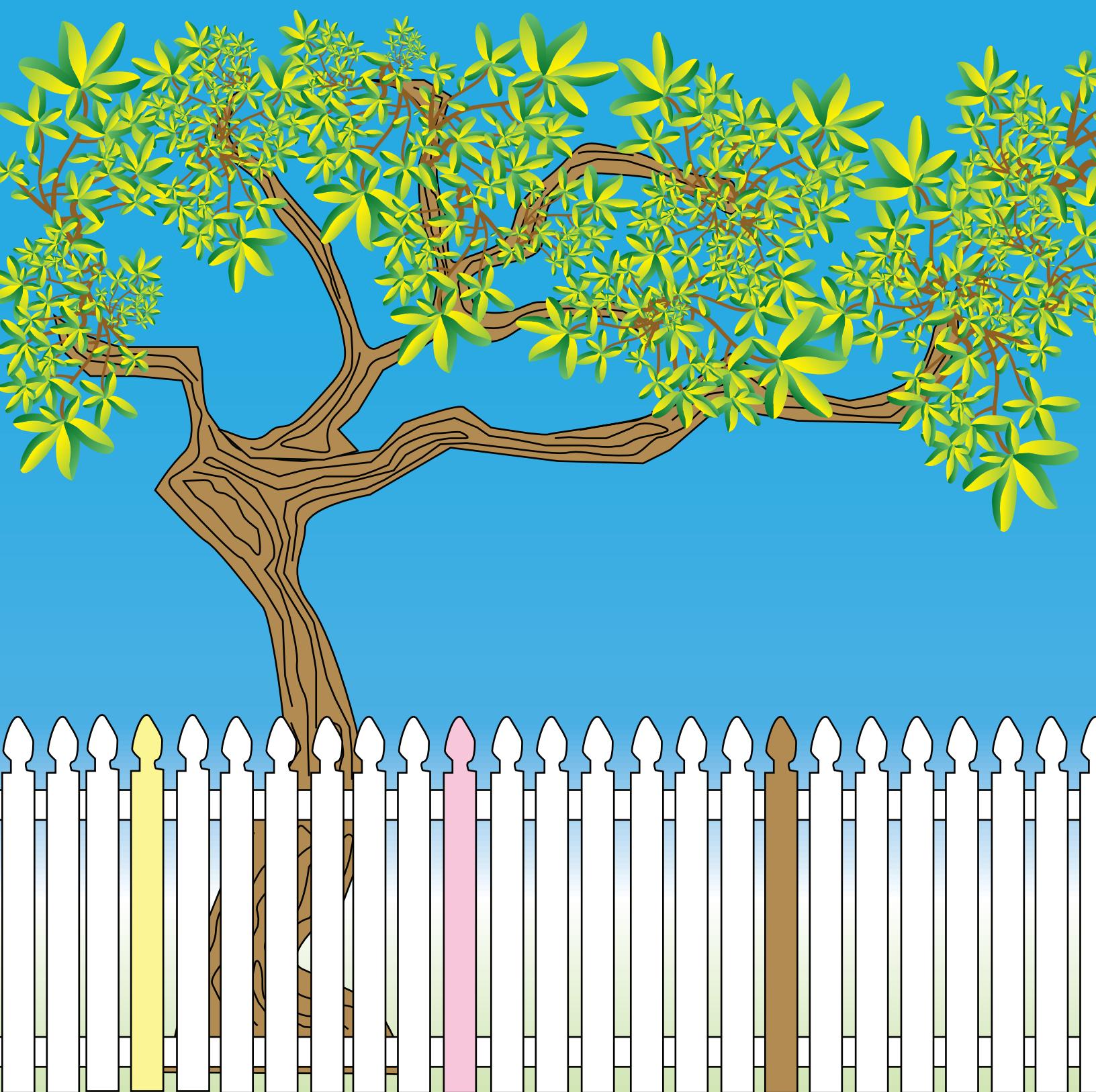
⁴ The OHRC's power under section 30 of the *Code* to develop policies is part of its broader responsibility under section 29 to promote, protect and advance respect for human rights in Ontario, to protect the public interest, and to eliminate discriminatory practices.

⁵ Note that case law developments, legislative amendments, and/or changes in the OHRC's own policy positions that took place after a document's publication date will not be reflected in that document. For more information, please contact the Ontario Human Rights Commission.

⁶ In *Quesnel v. London Educational Health Centre* (1995), 28 C.H.R.R. D/474 at para. 53 (Ont. Bd. Inq.), the tribunal applied the United States Supreme Court's decision in *Griggs v. Duke Power Co.*, 401 U.S. 424 (4th Cir. 1971) to conclude that OHRC policy statements should be given "great deference" if they are consistent with *Code* values and are formed in a way that is consistent with the legislative history of the *Code* itself. This latter requirement was interpreted to mean that they were formed through a process of public consultation.

⁷ Recently, the Ontario Superior Court of Justice quoted at length excerpts from the OHRC's published policy work in the area of mandatory retirement and stated that the OHRC's efforts led to a "sea change" in the attitude to mandatory retirement in Ontario. The OHRC's policy work on mandatory retirement heightened public awareness of this issue and was at least partially responsible for the Ontario government's decision to pass legislation amending the *Code* to prohibit age discrimination in employment after age 65, subject to limited exceptions. This amendment, which became effective December 2006, made mandatory retirement policies illegal for most employers in Ontario: *Assn. of Justices of the Peace of Ontario v. Ontario (Attorney General)* (2008), 92 O.R. (3d) 16 at para. 45. See also *Eagleson Co-Operative Homes, Inc. v. Théberge*, [2006] O.J. No. 4584 (Sup.Ct. (Div.Ct.)) in which the Court applied the OHRC's *Policy and Guidelines on Disability and the Duty to Accommodate*, available at:

www.ohrc.on.ca/en/resources/Policies/PolicyDisAccom2



ISBN: 978-1-4435-4497-9

This policy was approved by the Commission: March 2010

Also available on the internet: www.ohrc.on.ca

Available in other accessible formats on request

Disponible en français

Presidential Task Force on the Under-Representation of Racialized and Indigenous Faculty and Staff

Report and Recommendations

CO-CHAIRS: DR. SARA DIAMOND AND DR. CAMILLE ISAACS

APRIL 2017



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Land Acknowledgement

OCAD University acknowledges the ancestral and traditional territories of the Mississaugas of the New Credit, the Haudenosaunee, the Anishinaabe and the Huron-Wendat, who are the original custodians of the land on which OCAD University operates.

Executive Summary

This document provides the mandate, context, analysis, recommendations and action plan of the Presidential Task Force on the Under-Representation of Racialized and Indigenous Faculty and Staff. The recommendations include an equity statement which lays out our university's commitment to equity and fourteen actions which are the results of extensive consultation and best practice analysis.

The goal of the action plan is an OCAD University in which the demographics of staff, faculty and administrators better represent the diverse students who make up our community and our international networks. The action plan will provide a work environment and culture which will foster equity, collaboration and result in a breadth of cultural knowledge and creative expression.

Task Force Mandate and Context

President Diamond established the mandate and membership of the task force in November 2015 in response to a negotiated settlement under the Human Rights Tribunal of Ontario (HRTO) between complainant Errol Saldanha and OCAD University. The mandate of the task force is to raise the percentage of racialized and Indigenous employees in all areas and at all levels of the University, and in doing so also seek to increase diversity in the curriculum. The President interpreted this mandate as pertaining to both hiring processes and retention. The task force would consult with university stakeholders, including students, faculty, sessional faculty, staff, managers and alumni, including Mr. Saldanha, and would develop a report with recommendations that would then form the basis of a University Action Plan. The President established a faculty co-chair, firstly Dr. Robert Diaz and then Dr. Camille Isaacs.

While prompted by the HRTO settlement, the task force is a welcome initiative in OCAD University's progress to become a more equitable and diverse institution, and its commitment to implementing the Truth and Reconciliation Commission's Calls to Action. The task force builds upon a decade of actions intended to improve representation, diversity and equity under the leadership of OCAD U's Office of Diversity, Equity and Sustainability Initiatives. In 2011, the University undertook a comprehensive survey of staff and faculty to

collect data on the representation of equity seeking groups as a part of an ongoing institutional employment equity program. In 2009, OCAD U launched an Indigenous Visual Culture (INVC) academic program and INVC Student Centre, and established an Aboriginal Educational Council in 2008. In 2007, the University appointed Canada's first Indigenous Chancellor, The Honourable James K. Bartleman. The task force also builds on successful achievements in the 1980's at OCAD U to address the under-representation of women in faculty and administration and significant gaps in pay between male and female employees (*Equity 2000*).

Presently, OCAD U is undertaking a review of its human rights policy, the *Respectful Work & Learning Environment Policy (RWLEP)*. These endeavors complement the world leading activities of the Inclusive Design Research Centre and Institute at OCAD U, in establishing standards, practices and technological innovations that support inclusion. The task force also coincides with a new institutional Vision and Mission, and Academic Plan, which emphasize decolonization, inclusion and equity.

We table this report at a significant moment in Canadian academia. Many institutions across the country are grappling with the under-representation of racialized and Indigenous faculty, staff, and students, and considering ways to redress historical inequity. This concern is reinforced by the number of recent publications, reports, and conversations happening in various settings. The CBC recently (January 2017) ran a news segment as part of their program, *The Current*, which considered the inequity in Canadian academia, particularly for Black graduate students. The forthcoming book, *The Equity Myth* (May 2017) by Frances Henry, et al., will be a comprehensive study of post-secondary equity programs nationwide and examine racism in Canadian universities.

Simultaneously, the publication of the Truth and Reconciliation Commission of Canada's Calls to Action specifically points to education, and post-secondary institutions, as a space for moving forward. Part of their calls to action are as follows:

- “We call upon the federal government to develop with Aboriginal groups a joint strategy to eliminate educational and employment gaps between Aboriginal and non-Aboriginal Canadians”
- “We call upon post-secondary institutions to create university and college degree and diploma programs in Aboriginal languages”
- “We call upon the federal, provincial, and territorial governments... to ... provide the necessary funding to post-secondary institutions to educate teachers on how to integrate Indigenous knowledge and teaching methods into classrooms”

OCAD University recognizes the significance of this report to OCAD U's students, who do not yet see themselves adequately reflected in the faculty and staff complement with whom they come into daily contact. We also recognize the barriers faced by faculty and staff (current and prospective) to being hired, retained, and advanced to leadership positions. And we take this opportunity to highlight the obligations OCAD U has to deliver diverse curricula to its students, and thereby reflect the wider community.

To the 234 respondents who took the time to complete our surveys to help us to determine the barriers to hiring, retention, and advancement at both the faculty and staff levels, we want you to know that we heard you and we took your responses very seriously. The recommendations at the end of this report are a direct reflection of those survey responses.

Task Force Membership

Co-Chair, President and Vice-Chancellor, Dr. Sara Diamond	Vice-President Academic and Provost, Dr. Gillian Siddall
Co-Chair, Assistant Professor, Faculty of Liberal Arts and Sciences, Dr. Camille Isaacs	Graduate Student Representative, Elisha Lim
Former Co-Chair, Assistant Professor, Faculty of Liberal Arts and Sciences, Dr. Robert Diaz	Undergraduate Student Representative, Amanda Robertson-Hébert
Professor, Faculty of Art, Dr. Richard Fung	OCADFA President, Dr. Charles Reeve
Associate Professor, Faculty of Art, Dr. Andrea Fatona	OPSEU Representative, Alvaro Araya
Associate Professor, Faculty of Design, Dr. Patricio Davila	Manager, Campus Operations, Lance Straun
Assistant Professor, Faculty of Liberal Arts and Sciences, Dr. Heather Coffey	Dean, Faculty of Art, Dr. Vladimir Spicanovic
Delaney Chair in Indigenous Visual Culture, Ryan Rice	Director, Human Resources, Nicky Davis
	Director, Office of Diversity, Equity & Sustainability Initiatives (ODESI), Amanda Hotrum
	Programs, Outreach & Human Rights Advisor, ODESI, Shamina Chherawala

Methodology

The task force first started meeting in January of 2016, composed of faculty members from all 3 Faculties, academic leadership, administrative management, labour organizations (OPSEU and OCADFA), student representatives, the Delaney Chair in Indigenous Visual Culture, the Vice-President Academic & Provost, Human Resources, the Office of Diversity, Equity & Sustainability Initiatives, and the co-chairs, Dr. Sara Diamond and Dr. Camille Isaacs (previously Dr. Robert Diaz).

Under the leadership of Dr. Robert Diaz the task force developed the following methodology which drew on primarily qualitative social science methods:

- Develop an equity statement as a guiding framework for the task force
- Undertake a comprehensive survey of staff and faculty for feedback on the barriers to, and solutions for, hiring and retaining racialized and Indigenous staff and faculty. The survey was developed using social science methods and grounded in the Ontario Human Rights Commission's *A Policy Primer: Guide to Developing Human Rights Policies and Procedures*, which states that organizations should be aware of systemic barriers to under-represented groups and actively seek to remove them. The guide recognizes that barriers can be formal or informal in nature, and may include institutional practices around recruitment, selection, compensation, training, promotion and termination.
- Ensure privacy protection - all survey responses are secure and anonymous, held within ODESI and presented as aggregate data. No individual responses will be provided to OCAD University faculty, staff or leadership.
- Organize consultation meetings with invited members of the community including Mr. Saldanha
- Hold office hours, open to all members of the OCAD U community, with Dr. Diaz, Dr. Isaacs and ODESI staff (as outlined in the settlement agreement) to provide feedback and recommendations.
- Crossover dialogues with the Academic Plan organizing committee to ensure that recommendations aligned with the academic plan
- Crossover dialogues with the Vision and Mission Task Force to ensure that the vision and mission encompassed perspectives on equity in hiring, retention and curriculum
- Consultations with labour organizations at OCAD U
- Consultations with Senate and the Board of Governors
- Secondary source research by ODESI and Human Resources to develop an understanding of best practices at other universities
- Legal advice to ensure compliance with the **Ontario Human Rights Code**
- Collaborative development of recommendations through the comprehensive committee membership

The task force mandate did not include a review of curriculum. However, its analysis and findings indicate that institutions with inclusive and equitable working environments make better decisions and enable a wide diversity of expression and opinion, which will inevitably broaden curriculum.

Task Force Consultation Data

FACULTY AND ACADEMIC LEADERSHIP

103 individuals participated in the faculty and academic leadership on-line consultation, of whom 18% identified as racialized or Indigenous. (Another 14% chose not to answer this question, the reasons for which may be manifold.)*

Racialized persons comprise 13% of OCAD U's faculty (2011 OCAD U workforce survey). Considering that more than 50% of OCADU's undergraduate students identify as belonging to an ethno-racial group other than "white," (2011 NSSE survey), our faculty and academic leadership have fallen far short of mirroring our student population.

We had an equal number of male and female participants. The majority of the participants (35%), however, were in the 50-59 age group, which reflects their experience, but also the aging of our faculty and upper administration. We had fairly good representation from all the faculties: Faculty of Art, 35%; Faculty of Design, 36% Faculty of Liberal Arts & Sciences, 23%.* We also had good representation across all the labour categories. Responses were received from sessional, CLTA, Tenured, and Tenure-track faculty. Most of the respondents (73%), however, were not in a leadership position (as Graduate Program Director, etc.), suggesting that this was largely faculty responding to the online consultation.

*Although the total number of participants was 104, many chose not to answer all the questions. Participants could "skip" certain questions, or simply mark "I choose not to answer."

UNIVERSITY STAFF AND NON-ACADEMIC LEADERSHIP

While a larger number of non-academic staff responded to the on-line consultation (131 participants), this also included a larger number of participants who chose not to answer all the questions. The staff consultations indicate, however, that a larger percentage of the participants identify as racialized or Indigenous (30%) than was the case with the faculty/leadership online consultation. This larger cohort also includes a larger number of women (61%). The age is also considerably younger for this part of the on-line consultation, with the largest percentage (36%) being in the 30-39-year-old group. The various labour categories were not as well represented in this part of the consultation, as an overwhelming majority (45%) worked as administrative staff or librarians. Responses were received, however, from managers, technicians, counsellors, teaching assistants, models, and others, in far fewer numbers. As was the case with the faculty on-line consultation, the majority of participants (64%) did not work in a leadership position.

The task force did not undertake a quantitative survey to identify workforce representation of Indigenous and racialized staff and faculty and measure progress from the 2011 baseline, although data collection is part of its recommendations.

Responses from On-Line Consultations, Open Houses, and Informal Meetings

Feedback from community members noted a range of examples of systemic racism and bias in hiring and employment practices and decisions, and its impacts on retention and advancement. A summary is below:

BARRIERS TO THE RECRUITMENT OF INDIGENOUS AND RACIALIZED FACULTY AND STAFF

- The composition of hiring committees was repeatedly raised as a barrier to recruitment, due to the lack of diversity of committees, and use of informal and biased hiring practices and selection criteria that disadvantage racialized and Indigenous candidates
- Hiring from within existing informal communities or “who you know” was often raised as a factor in why faculty composition repeats itself
- Informal practice and criteria of hiring for “culture fit” operates as a proxy for discriminatory biases
- It was also suggested that job ads should state explicitly that OCAD U is looking specifically for racialized and Indigenous applicants.
- Lived experience, and community-based work experience need to be recognized as a part of skills and qualifications, in addition to terminal degrees.
- There was a perceived lack of international reach and under-use of non-traditional recruitment venues in our searches
- External perception of low remuneration and extensive service commitments expected of racialized and Indigenous faculty
- Short application deadlines inhibit outreach as well as some from applying for positions.
- The lack of racialized and Indigenous faculty in upper administrative positions is a deterrent.
- Poor track record of treatment of racialized and Indigenous faculty, who are perceived as holding precarious positions.
- HR needs wider recruitment and advertisement; more funds for outreach.
- Requests were made that job ads target and undertake outreach to various communities.
- Not requesting ethnicity/race self-identification as part of interview process was seen as problematic, making it difficult to identify Indigenous and racialized candidates.

BARRIERS TO THE RETENTION OF INDIGENOUS AND RACIALIZED FACULTY AND STAFF

- Insufficient Professional Development funding; lack of information regarding funding opportunities for advancement.
- Insufficient time to dedicate to career development due to service commitments and heavy workloads.
- Differential treatment, lack of support for faculty equity initiatives.
- There appears to be no systematic method for the awarding of course releases.
- Silo-ing of Faculties and lack of potential for cross-program or cross-Faculty collaboration and discussion to diminish sense of isolation.
- Lack of mentorship.
- Lack of information; poor communication.
- Inadequate training for managers to address issues of racism.
- Lack of community-building and networking opportunities.
- Over reliance and over-work of limited pool of racialized and Indigenous individuals, due to the need for 'diversity' representation on committees and in governance.
- Performance reviews not completed consistently.
- Perception that racialized individuals were over-represented in contract positions with no potential to advance into secure employment.
- Survey respondents noted the need for more permanent jobs, developments plans and goals, and salaries that match.

BARRIERS TO LEADERSHIP OPPORTUNITIES FOR FACULTY AND STAFF

- Not enough diversity in existing leadership positions, perception that racialized and Indigenous candidates are not welcomed in these roles.
- Already heavy workload for faculty and staff makes it challenging to undertake additional advancement.
- Inadequate Professional development and mentorship to prepare individuals for advancement.

OCAD University Equity Statement

OCAD University acknowledges that a commitment to the principles of equity requires an engagement with and response to the complex, systemic, and often deeply imbedded ways that systems and practices exclude disproportionately underrepresented communities. Such groups include, but are not limited to, Indigenous Peoples, women, racialized peoples, persons with disabilities, and lesbian, gay, bisexual, transgender, queer, and intersex and 2-spirit persons. OCAD University thus aims to advance the principles of equity by prioritizing the equitable allocation of resources across the institution and by creating a positive and inclusive environment for all of the university's communities and constituencies.

As an institution committed to art, design, digital media and related scholarship, OCAD University recognizes the profound and essential value that diversity brings to the creation, reception and circulation of creative practices and discourse. OCAD University understands that valuing diverse creative practices and forms of knowledge are essential to, and enrich, the institution's core mission and vision.

The institution understands that the advancing of equity extends beyond the numerical representation of underrepresented communities, or the inclusion of underrepresented groups in order to achieve diversity. Rather, a more engaged approach to equity requires the implementation

and evaluation of specific measures or policies that recognize, address, and remediate the exclusion of underrepresented groups from the institutions of higher learning specifically, and from the larger art & design sector generally. For students, this includes the creation of opportunities for underrepresented students to participate in educational programs that can close gaps in their success and achievement. For employees, this includes the creation and implementation of policies that enable historically underrepresented faculty and staff to have equal access to employment, professional growth opportunities, and institutional resources. For the Board of Governors equitable representation ensures that diverse viewpoints and fair practices will be part of university governance.

OCAD University encourages the equitable representation, participation, and leadership of underrepresented communities in the design, implementation and evaluation of faculties and programs within and across the institution. Pursing equity in all aspects of teaching, research, and community engagement, the institution sustains a range of knowledge forms, genres and practices, including those produced by equity seeking communities.

University Action Plan

THE TASK FORCE HAS UNDERTAKEN TO COMBINE ITS RECOMMENDATIONS WITH AN ACTION PLAN THAT INCLUDES NEAR-TERM (UP TO 5 YEARS) GOALS AND LONGER-TERM (UP TO 10 YEARS GOALS).

1. OCAD U will implement the following special program¹ under section 14 of the **Ontario Human Rights Code** in all forthcoming competitions for tenured faculty, academic administrator, manager, librarians, and administrative & confidential staff positions: "In order to alleviate the under-representation of racialized and Indigenous tenured faculty and academic administrators [or managers, librarians, administrative & confidential staff], priority in hiring will be given to qualified racialized and Indigenous persons who self-identify as such in the application process. This initiative is a special program under the **Ontario Human Rights Code**". OCAD U can further specify that only Indigenous or racialized applicants may apply in competitions to increase the representation of these groups as a special program. The Office of Diversity, Equity & Sustainability Initiatives will continue to advise on areas of under-representation requiring special programs.
2. In the short term (within 5 years) we recommend that a robust system for data

collection and analysis of workforce and student population data be established. The workforce data collection system should capture recruitment, hiring, promotion and retention data, and have the functionality to compare workforce representation to census data, as well as student representation, by program and/or department.

- a) Data should be jointly monitored by ODES with Human Resources (employee data) and the office of the Vice-Provost, Students & International (student data).
- b) OCAD U should undertake a campus-wide survey within the next year to collect updated workforce data that can be compared to the 2011 workforce demographics.
- c) Deans and administrative managers will be responsible for setting numerical targets for their respective programs/ departments. Support for setting short-term goals will be provided by ODES and Human Resources.

¹Section 14 of the **Human Rights Code** allows organizations to create temporary special measures on a voluntary basis to help create opportunities for people who experience discrimination, economic hardship and disadvantage. The OHRC encourages the development of special programs as an effective way to help reduce discrimination and address historical disadvantage. Examples of special programs include: programs designed to promote the hiring and advancement of underrepresented communities and programs designed to encourage the enrolment of Indigenous students in a university. Special programs must be developed carefully and with clear reasons about why a particular group is chosen for special assistance. See the OHRC's *Special programs and the Ontario Human Rights Code – A self-help guide* (2010).

- 3.** In the long term (up to 10 years), we recommend that our faculty and staff complement be reflective of our student population.
- 4.** To support employment equity institution-wide, we recommend that the Faculties and administrative managers create departmental employment equity plans, a process by which progress will be evaluated annually and reported to EEEC.
- a)** Data and progress including non-numerical terms (training) will be considered, culminating with a report to the community.
- 5.** We recommend that an Employment Equity administrator be hired to implement employment equity initiatives, including:
- a)** Developing relevant policy and procedures
- b)** Coordinating/facilitating training
- c)** Analyzing and reporting on applicant tracking and workforce representation data
- d)** Advising academic and administrative managers and hiring committee chairs on employment equity measures
- 6.** We recommend that a trained group of faculty and staff be established who will serve as employment equity representatives on all hiring committees, peer review committees (faculty), and performance review/job evaluation (admin) committees.
- a)** The group would receive training in equitable practices in hiring, and in preventing and addressing individual,
- institutional and systemic racism. This training is also to be completed by all academic and administrative managers, Chairs, Graduate Program Directors, and Human Resources staff.
- 7.** We recommend that all job postings, and the OCAD U web page, reflect institutional equity commitments and institutional Special Programs in hiring under section 14 of **the Code**. In addition, equity needs to be embedded throughout job postings and reflected in qualifications, experiences etc.
- a)** We also recommend that job postings be approved by the aforementioned Employment Equity administrator prior to posting, and posted in wider arenas.
- b)** Prioritization of equity seeking groups in recruitment efforts should be highlighted in outreach strategies and in the ads.
- 8.** We recommend that a process of digital applicant tracking be implemented to track applicant pool diversity, and that this data be used for barrier identification and removal at each stage of the recruitment and selection process.
- 9.** We recommend that those participating in employee recruitment and selection on behalf of OCAD U must receive training with respect to best practices in equitable hiring, university policy and the law as it relates to recruitment and selection.
- a)** As necessary, outside members should be added to hiring committees to ensure appropriate expertise.

- 10.** We recommend that qualified racialized and/or Indigenous candidates be a part of all short lists.
- a)** To further enable this, we recommend broadening shortlists to 5 or 6 applicants.
- b)** To ensure that shortlists are diverse, we recommend that the VPA's office and/or hiring managers be given the wherewithal to return shortlists to the relevant hiring committee if the shortlists do not meet the prioritization criteria
- 11.** We recommend that an Indigenous Services Administrator be appointed with permanent funding established from not just various levels of government, but also from OCAD U.
- a)** We are aware that the proposed Academic Plan is putting forward the creation of a position to address this and we support that proposition.
- 12.** We recommend the creation of a permanent faculty/staff lounge, which would serve multiple purposes: It would give faculty and staff a place to meet informally and create spaces of community, collaboration and new knowledge. It could be used for various social events. But it could also house rotating services for faculty and staff, such as health and wellness support, accommodation information.
- a)** We are aware that this initiative is already being considered as part of the Creative City Campus renovations and support this plan, as well as recommending the creation of an interim space.
- 13.** We recommend that a more formalized mentorship process be implemented.
- a)** Recognizing the disproportionate amount of mentoring called on from existing racialized and Indigenous faculty, we recommend that mentorship work be recognized in terms of service for faculty and a parallel mechanism implemented for administrative staff.
- b)** There also needs to be less precarity to ensure stronger mentorship
- 14.** We recommend and encourage management and labour to work together to realize appropriate changes to collective agreements to realize these recommendations.

Conclusion

As we move forward with implementing these recommendations, we would like to borrow a phrase from Sara Ahmed's influential, *On Being Included: Racism and Diversity in Institutional Life*: "What does diversity do?" ("Introduction"). To this we would like to add, "What can these recommendations do?" It was very important to the members of the task force that we create not just another policy document, but a set of recommendations with measurable outcomes, in other words, an action plan. To this end, the recommendations have many built-in measures and responses. We want to not only increase racialized and Indigenous faculty and staff, but to have the relevant data to judge whether we are meeting our goals. As such, steps are already in place to conduct a demographic survey of our students, faculty, and staff to ensure faculty/staff and students are a reflection of each other. We want not only to have another equity statement, but for this to be an active process. As such, we are proposing that all Faculties and administrative departments draft area-specific employment equity plans, where progress will be evaluated on a yearly basis and monitored by the OCAD University Employment and Educational Equity Committee, an advisory committee to the President. Other initiatives, such as the faculty/staff lounge or the appointment of an Indigenous Services administrator, are underway.

Ahmed's response to the above-mentioned question is, in part, as follows: "The question of what diversity does is also, then, a question of where diversity goes (and where it does not) as well as in whom and in what diversity is deposited (as well as in whom or in what it is not)" ("Introduction"). The question of

diversity and equity at OCAD University, then, is, in part, where this document and the recommendations therein "go." The members of the task force are well aware that it is important that this report not languish on the shelf alongside other documents. Diversity and equity must be embedded in all levels of the institution: from administrative practices, to staff hiring, to the Faculties, to the curriculum that is delivered to the students that attend the school, to the research priorities that are set. The new Academic Plan entitled OCAD University: A Transformative Student Experience places Truth and Reconciliation and diversity and equity high on its agenda. As both the academic plan and this document attest, diversity and equity are not problems for diverse faculty/staff members alone, but for the institution as a whole. It is important that we, as an institution, acknowledge where we have created or enabled barriers to exist, which limited the hiring, retention, and advancement of racialized and Indigenous faculty and staff. We must do the hard work to remove those barriers.

Our mandate was to increase the percentage of racialized and indigenous employees in all areas and at all levels of the university through hiring and retention measures. This can only occur by our long-term goal of 2027 if diversity "goes" (to use Ahmed's phrase) to all areas of the university and becomes a cornerstone of how OCAD University defines itself. Our success will lead to an institution that truly embodies, advocates for and celebrates the complex and diverse cultures of our century. It is our aim that this report be one of the building blocks in that transformation.

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CANADA

CONSOLIDATION

Employment Equity Act

S.C. 1995, c. 44

CODIFICATION

Loi sur l'équité en matière d'emploi

L.C. 1995, ch. 44

Current to September 11, 2022

Last amended on January 1, 2021

À jour au 11 septembre 2022

Dernière modification le 1 janvier 2021

OFFICIAL STATUS OF CONSOLIDATIONS

Subsections 31(1) and (2) of the *Legislation Revision and Consolidation Act*, in force on June 1, 2009, provide as follows:

Published consolidation is evidence

31 (1) Every copy of a consolidated statute or consolidated regulation published by the Minister under this Act in either print or electronic form is evidence of that statute or regulation and of its contents and every copy purporting to be published by the Minister is deemed to be so published, unless the contrary is shown.

Inconsistencies in Acts

(2) In the event of an inconsistency between a consolidated statute published by the Minister under this Act and the original statute or a subsequent amendment as certified by the Clerk of the Parliaments under the *Publication of Statutes Act*, the original statute or amendment prevails to the extent of the inconsistency.

LAYOUT

The notes that appeared in the left or right margins are now in boldface text directly above the provisions to which they relate. They form no part of the enactment, but are inserted for convenience of reference only.

NOTE

This consolidation is current to September 11, 2022. The last amendments came into force on January 1, 2021. Any amendments that were not in force as of September 11, 2022 are set out at the end of this document under the heading "Amendments Not in Force".

CARACTÈRE OFFICIEL DES CODIFICATIONS

Les paragraphes 31(1) et (2) de la *Loi sur la révision et la codification des textes législatifs*, en vigueur le 1^{er} juin 2009, prévoient ce qui suit :

Codifications comme élément de preuve

31 (1) Tout exemplaire d'une loi codifiée ou d'un règlement codifié, publié par le ministre en vertu de la présente loi sur support papier ou sur support électronique, fait foi de cette loi ou de ce règlement et de son contenu. Tout exemplaire donné comme publié par le ministre est réputé avoir été ainsi publié, sauf preuve contraire.

Incompatibilité — lois

(2) Les dispositions de la loi d'origine avec ses modifications subsequentes par le greffier des Parlements en vertu de la *Loi sur la publication des lois* l'emportent sur les dispositions incompatibles de la loi codifiée publiée par le ministre en vertu de la présente loi.

MISE EN PAGE

Les notes apparaissant auparavant dans les marges de droite ou de gauche se retrouvent maintenant en caractères gras juste au-dessus de la disposition à laquelle elles se rattachent. Elles ne font pas partie du texte, n'y figurant qu'à titre de repère ou d'information.

NOTE

Cette codification est à jour au 11 septembre 2022. Les dernières modifications sont entrées en vigueur le 1 janvier 2021. Toutes modifications qui n'étaient pas en vigueur au 11 septembre 2022 sont énoncées à la fin de ce document sous le titre « Modifications non en vigueur ».

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S.C. 1995, c. 44

An Act respecting employment equity

[Assented to 15th December 1995]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short Title

Short title

1 This Act may be cited as the *Employment Equity Act*.

Purpose of Act

Purpose of Act

2 The purpose of this Act is to achieve equality in the workplace so that no person shall be denied employment opportunities or benefits for reasons unrelated to ability and, in the fulfilment of that goal, to correct the conditions of disadvantage in employment experienced by women, Aboriginal peoples, persons with disabilities and members of visible minorities by giving effect to the principle that employment equity means more than treating persons in the same way but also requires special measures and the accommodation of differences.

1995, c. 44, s. 2; 2017, c. 26, s. 19(E).

Interpretation

Definitions

3 In this Act,

Aboriginal peoples means persons who are Indians, Inuit or Métis; (*autochtones*)

L.C. 1995, ch. 44

Loi concernant l'équité en matière d'emploi

[Sanctionnée le 15 décembre 1995]

Sa Majesté, sur l'avis et avec le consentement du Sénat et de la Chambre des communes du Canada, édicte :

Titre abrégé

Titre abrégé

1 *Loi sur l'équité en matière d'emploi*.

Objet

Objet

2 La présente loi a pour objet de réaliser l'égalité en milieu de travail de façon que nul ne se voie refuser d'avantages ou de chances en matière d'emploi pour des motifs étrangers à sa compétence et, à cette fin, de corriger les désavantages subis, dans le domaine de l'emploi, par les femmes, les autochtones, les personnes handicapées et les personnes qui font partie des minorités visibles, conformément au principe selon lequel l'équité en matière d'emploi requiert, outre un traitement identique des personnes, des mesures spéciales et des aménagements adaptés aux différences.

1995, ch. 44, art. 2; 2017, ch. 26, art. 19(A).

Définitions

Définitions

3 Les définitions qui suivent s'appliquent à la présente loi.

agent d'application Agent désigné à titre d'agent de vérification de la conformité à l'équité en matière d'emploi en application du paragraphe 22(3). (*compliance officer*)

Canadian workforce means all persons in Canada of working age who are willing and able to work; (*population apte au travail*)

Chairperson means the chairperson of the Canadian Human Rights Tribunal; (*président*)

Commission means the Canadian Human Rights Commission established under section 26 of the *Canadian Human Rights Act*; (*Commission*)

compliance officer means a person designated as an employment equity compliance review officer pursuant to subsection 22(3); (*agent d'application*)

designated groups means women, Aboriginal peoples, persons with disabilities and members of visible minorities; (*groupes désignés*)

members of visible minorities means persons, other than Aboriginal peoples, who are non-Caucasian in race or non-white in colour; (*minorités visibles*)

Minister means such member of the Queen's Privy Council for Canada as is designated by the Governor in Council as the Minister for the purposes of this Act; (*ministre*)

Panel [Repealed, 1998, c. 9, s. 37]

persons with disabilities means persons who have a long-term or recurring physical, mental, sensory, psychiatric or learning impairment and who

(a) consider themselves to be disadvantaged in employment by reason of that impairment, or

(b) believe that a employer or potential employer is likely to consider them to be disadvantaged in employment by reason of that impairment,

and includes persons whose functional limitations owing to their impairment have been accommodated in their current job or workplace; (*personnes handicapées*)

prescribed means prescribed by the regulations; (*Version anglaise seulement*)

private sector employer means any person who employs one hundred or more employees on or in connection with a federal work, undertaking or business as defined in section 2 of the *Canada Labour Code* and includes any corporation established to perform any function or duty on behalf of the Government of Canada that employs one hundred or more employees, but does not include

autochtones Les Indiens, les Inuit et les Métis. (*aboriginal peoples*)

Comité [Abrogée, 1998, ch. 9, art. 37]

Commission La Commission canadienne des droits de la personne constituée par l'article 26 de la *Loi canadienne sur les droits de la personne*. (*Commission*)

employeur du secteur privé Quiconque emploie au moins cent salariés au sein ou dans le cadre d'une entreprise fédérale au sens de l'article 2 du *Code canadien du travail*, ainsi que toute personne morale employant au moins cent salariés et constituée pour l'accomplissement de fonctions au nom du gouvernement du Canada, à l'exclusion :

a) d'une personne qui emploie des salariés au sein ou dans le cadre d'une entreprise, d'une affaire ou d'un ouvrage de nature locale et privée au Yukon, dans les Territoires du Nord-Ouest ou au Nunavut;

b) d'un établissement public assimilé à un ministère aux termes de la *Loi sur la gestion des finances publiques*. (*private sector employer*)

groupes désignés Les femmes, les autochtones, les personnes handicapées et les personnes qui font partie des minorités visibles. (*designated groups*)

ministre Le membre du Conseil privé de la Reine pour le Canada chargé par le gouverneur en conseil de l'application de la présente loi. (*Minister*)

minorités visibles Font partie des minorités visibles les personnes, autres que les autochtones, qui ne sont pas de race blanche ou qui n'ont pas la peau blanche. (*members of visible minorities*)

personnes handicapées Les personnes qui ont une déficience durable ou récurrente soit de leurs capacités physiques, mentales ou sensorielles, soit d'ordre psychiatrique ou en matière d'apprentissage et :

a) soit considèrent qu'elles ont des aptitudes réduites pour exercer un emploi;

b) soit pensent qu'elles risquent d'être classées dans cette catégorie par leur employeur ou par d'éventuels employeurs en raison d'une telle déficience.

La présente définition vise également les personnes dont les limitations fonctionnelles liées à leur déficience font l'objet de mesures d'adaptation pour leur emploi ou dans leur lieu de travail. (*persons with disabilities*)

(a) a person who employs employees on or in connection with a work, undertaking or business of a local or private nature in Yukon, the Northwest Territories or Nunavut, or

(b) a departmental corporation as defined in section 2 of the *Financial Administration Act*; (*employeur du secteur privé*)

representatives means

(a) those persons who have been designated by employees to act as their representatives, or

(b) bargaining agents, where bargaining agents represent the employees; (*représentants*)

Tribunal means an Employment Equity Review Tribunal established by subsection 28(1). (*tribunal*)

1993, c. 28, s. 78; 1995, c. 44, s. 3; 1998, c. 9, s. 37, c. 15, s. 25; 2002, c. 7, s. 162(E); 2017, c. 26, s. 19(E).

Application

Application

4 (1) This Act applies to

(a) private sector employers;

(b) the portions of the federal public administration set out in Schedule I or IV to the *Financial Administration Act*;

(c) the portions of the federal public administration set out in of Schedule V to the *Financial Administration Act* that employ one hundred or more employees; and

(d) such other portion of the public sector employing one hundred or more employees, including the Canadian Forces and the Royal Canadian Mounted Police, as may be specified by order of the Governor in Council on the recommendation of the Treasury Board, in consultation with the minister responsible for the specified portion.

Royal Canadian Mounted Police

(2) For the purposes of this Act,

(a) the Royal Canadian Mounted Police is deemed to consist only of its members within the meaning of subsection 2(1) of the *Royal Canadian Mounted Police Act*;

population apte au travail Ensemble des personnes, au Canada, en âge de travailler et capables et désireuses de le faire. (*Canadian workforce*)

président Le président du Tribunal canadien des droits de la personne. (*Chairperson*)

représentants Les personnes que les salariés ont désignées pour les représenter ou, le cas échéant, les agents négociateurs des salariés. (*representatives*)

tribunal Le Tribunal de l'équité en matière d'emploi constitué en application du paragraphe 28(1). (*Tribunal*)

1993, ch. 28, art. 78; 1995, ch. 44, art. 3; 1998, ch. 9, art. 37, ch. 15, art. 25; 2002, ch. 7, art. 162(A); 2017, ch. 26, art. 19(A).

Champ d'application

Champ d'application

4 (1) La présente loi s'applique à :

a) tous les employeurs du secteur privé;

b) tous les secteurs de l'administration publique fédérale mentionnés aux annexes I ou IV de la *Loi sur la gestion des finances publiques*;

c) tout secteur de l'administration publique fédérale figurant à l'annexe V de la *Loi sur la gestion des finances publiques* et comportant au moins cent salariés;

d) tout autre élément du secteur public comportant au moins cent salariés, notamment les Forces canadiennes et la Gendarmerie royale du Canada, qui est désigné par décret pris sur la recommandation du Conseil du Trésor, après consultation avec le ministre responsable de l'élément du secteur public visé par le décret.

Gendarmerie royale du Canada

(2) Pour l'application de la présente loi :

a) la Gendarmerie royale du Canada est réputée être composée uniquement de ses membres au sens de la définition donnée à ce terme à l'article 2 de la *Loi sur la Gendarmerie royale du Canada*;

(b) the Royal Canadian Mounted Police is deemed not to be included in Schedule IV to the *Financial Administration Act*; and

(c) civilian employees appointed or employed in accordance with section 10 of the *Royal Canadian Mounted Police Act* are deemed to be included in Schedule IV to the *Financial Administration Act*.

Canadian Forces and Royal Canadian Mounted Police

(3) Members of the Canadian Forces and the Royal Canadian Mounted Police are deemed to be employees for the purposes of this Act.

Responsibilities of Treasury Board and Public Service Commission

(4) The Treasury Board and the Public Service Commission, each acting within the scope of its powers, duties and functions under the *Financial Administration Act* and the *Public Service Employment Act*, are responsible for carrying out the obligations of an employer under this Act in relation to employees employed in those portions of the federal public administration referred to in paragraph (1)(b).

Deemed employer

(5) Every portion of the public sector referred to in paragraphs (1)(c) and (d) is deemed to be an employer for the purposes of this Act in relation to employees employed in that portion except that, with respect to any of those portions for which the Public Service Commission exercises any power or performs any function under the *Public Service Employment Act*, the Public Service Commission and that portion are responsible for carrying out the obligations of an employer under this Act.

References to employer

(6) In this Act, a reference to an employer is deemed, in relation to those portions of the public sector referred to in

(a) paragraph (1)(b), to be a reference to the Treasury Board and the Public Service Commission, each acting within the scope of its powers and functions under the *Financial Administration Act* and the *Public Service Employment Act*; and

(b) paragraphs (1)(c) and (d) for which the Public Service Commission exercises any power or performs any function under the *Public Service Employment Act*, to be a reference to the employer and the Public Service Commission.

b) la Gendarmerie royale du Canada est réputée ne pas être mentionnée à l'annexe IV de la *Loi sur la gestion des finances publiques*;

c) le personnel civil nommé ou employé conformément à l'article 10 de la *Loi sur la Gendarmerie royale du Canada* est réputé mentionné à l'annexe IV de la *Loi sur la gestion des finances publiques*.

Forces canadiennes et Gendarmerie royale du Canada

(3) Pour l'application de la présente loi, les membres des Forces canadiennes et de la Gendarmerie royale du Canada sont réputés être des salariés.

Obligations du Conseil du Trésor et de la Commission de la fonction publique

(4) Le Conseil du Trésor et la Commission de la fonction publique, chacun agissant dans les limites de ses attributions en vertu de la *Loi sur la gestion des finances publiques* et en vertu de la *Loi sur l'emploi dans la fonction publique*, sont chargés des obligations que la présente loi impose aux employeurs à l'égard des salariés qui font partie des secteurs de l'administration publique fédérale visés à l'alinéa (1) b).

Présomption

(5) Chaque élément du secteur public visé aux alinéas (1)c ou d) est, pour l'application de la présente loi, réputé, à l'égard de ses salariés, être un employeur; toutefois, dans la mesure où la Commission de la fonction publique exerce à l'égard de cet élément des attributions en vertu de la *Loi sur l'emploi dans la fonction publique*, cet employeur et la Commission sont chargés des obligations que la présente loi impose aux employeurs.

Règle d'interprétation

(6) Dans la présente loi, un renvoi à l'employeur est, dans le cas des secteurs de l'administration publique visés à l'alinéa (1)b), réputé constituer un renvoi au Conseil du Trésor et à la Commission de la fonction publique — chacun agissant dans les limites de ses attributions en vertu de la *Loi sur la gestion des finances publiques* et de la *Loi sur l'emploi dans la fonction publique* — et, dans le cas des éléments du secteur public visés aux alinéas (1)c) et d) à l'égard desquels la Commission de la fonction publique exerce des attributions en vertu de la *Loi sur l'emploi dans la fonction publique*, réputé constituer un renvoi à ce secteur et à la Commission.

Delegation by Treasury Board and Public Service Commission

(7) The Treasury Board and the Public Service Commission may, for the purpose of carrying out their obligations under this Act in relation to a portion of the federal public administration or other portion of the public sector referred to in subsection (1), authorize the chief executive officer or deputy head concerned to exercise, in relation to that portion, any of the powers and perform any of the functions of the Treasury Board or the Public Service Commission, as the case may be, referred to in this section.

Delegation by chief executive officer or deputy head

(8) Any chief executive officer or deputy head authorized under subsection (7) to exercise any of the powers and perform any of the duties and functions of the Treasury Board or Public Service Commission may, subject to and in accordance with the authorization given to that officer or deputy head, authorize one or more persons to exercise any of those powers and perform any of those duties and functions.

1995, c. 44, s. 4; 2001, c. 34, s. 40(F); 2003, c. 22, ss. 163, 236(E).

PART I

Employment Equity

Employer Obligations

Employer's duty

5 Every employer shall implement employment equity by

(a) identifying and eliminating employment barriers against persons in designated groups that result from the employer's employment systems, policies and practices that are not authorized by law; and

(b) instituting such positive policies and practices and making such reasonable accommodations as will ensure that persons in designated groups achieve a degree of representation in each occupational group in the employer's workforce that reflects their representation in

(i) the Canadian workforce, or

(ii) those segments of the Canadian workforce that are identifiable by qualification, eligibility or geography and from which the employer may reasonably be expected to draw employees.

Délégation

(7) Pour permettre l'exercice des obligations que leur impose la présente loi à l'égard d'un secteur de l'administration publique fédérale ou élément du secteur public visés au paragraphe (1), le Conseil du Trésor et la Commission de la fonction publique peuvent déléguer au premier dirigeant ou à l'administrateur général intéressés l'exercice de celles de leurs attributions qui sont mentionnées au présent article.

Subdélégation

(8) Les délégataires visés au paragraphe (7) peuvent, compte tenu des conditions et modalités de la délégation, subdéléguer à une ou plusieurs autres personnes les attributions qui leur ont été ainsi conférées.

1995, ch. 44, art. 4; 2001, ch. 34, art. 40(F); 2003, ch. 22, art. 163 et 236(A).

PARTIE I

Équité en matière d'emploi

Obligations de l'employeur

Obligations de l'employeur

5 L'employeur est tenu de réaliser l'équité en matière d'emploi par les actions suivantes :

a) détermination et suppression des obstacles à la carrière des membres des groupes désignés découlant de ses systèmes, règles et usages en matière d'emploi non autorisés par une règle de droit;

b) instauration de règles et d'usages positifs et prise de mesures raisonnables d'adaptation pour que le nombre de membres de ces groupes dans chaque catégorie professionnelle de son effectif reflète leur représentation :

(i) au sein de la population apte au travail,

(ii) dans les secteurs de la population apte au travail susceptibles d'être distingués en fonction de critères de compétence, d'admissibilité ou d'ordre géographique où il serait fondé à choisir ses salariés.

Employer not required to take certain measures

6 The obligation to implement employment equity does not require an employer

- (a)** to take a particular measure to implement employment equity where the taking of that measure would cause undue hardship to the employer;
- (b)** to hire or promote persons who do not meet the essential qualifications for the work to be performed;
- (c)** with respect to the public sector, to hire or promote persons without basing the hiring or promotion on merit in cases where the *Public Service Employment Act* requires that hiring or promotion be based on merit; or
- (d)** to create new positions in its workforce.

1995, c. 44, s. 6; 2003, c. 22, s. 237.

Employment of Aboriginal peoples

7 Notwithstanding any other provision of this Act, where a private sector employer is engaged primarily in promoting or serving the interests of Aboriginal peoples, the employer may give preference in employment to Aboriginal peoples or employ only Aboriginal peoples, unless that preference or employment would constitute a discriminatory practice under the *Canadian Human Rights Act*.

1995, c. 44, s. 7; 2017, c. 26, s. 19(E).

Certain rights not employment barriers

8 (1) Employee seniority rights with respect to a layoff or recall under a collective agreement or pursuant to the established practices of an employer are deemed not to be employment barriers within the meaning of this Act.

Other seniority rights

(2) Unless they are found to constitute a discriminatory practice under the *Canadian Human Rights Act*, employee seniority rights other than those referred to in subsection (1), including rights acquired under workforce adjustment policies implemented when an employer is downsizing or restructuring, under a collective agreement or pursuant to an established practice, are deemed not to be employment barriers within the meaning of this Act.

Portée de l'obligation de l'employeur

6 L'obligation de mise en œuvre de l'équité en matière d'emploi n'oblige pas l'employeur :

- a)** à prendre des mesures susceptibles de lui causer un préjudice injustifié;
- b)** à engager ou promouvoir des personnes qui ne possèdent pas les qualifications essentielles pour le travail à accomplir;
- c)** en ce qui concerne le secteur public, à engager ou promouvoir des personnes sans égard au mérite, dans les cas où la *Loi sur l'emploi dans la fonction publique* exige que la sélection soit faite au mérite;
- d)** à créer de nouveaux postes.

1995, ch. 44, art. 6; 2003, ch. 22, art. 237.

Emploi des autochtones

7 Par dérogation aux autres dispositions de la présente loi, l'employeur du secteur privé dont les activités sont principalement axées sur la promotion des intérêts des autochtones peut n'employer que des autochtones ou leur donner la préférence à l'embauche sauf si cette pratique est jugée discriminatoire sous le régime de la *Loi canadienne sur les droits de la personne*.

1995, ch. 44, art. 7; 2017, ch. 26, art. 19(A).

Présomption quant aux droits d'ancienneté

8 (1) Les dispositions des conventions collectives et les pratiques établies des employeurs concernant les droits d'ancienneté des salariés à l'égard des licenciements et des rappels ne sont pas réputées constituer des obstacles à la carrière au sens de la présente loi.

Politiques d'adaptation

(2) Sont réputés ne pas constituer des obstacles à la carrière au sens de la présente loi, sauf s'ils constituent des pratiques discriminatoires au sens de la *Loi canadienne sur les droits de la personne*, les droits d'ancienneté des salariés, autres que ceux mentionnés au paragraphe (1), qui découlent notamment :

- a)** des politiques d'adaptation de la main-d'œuvre mises en œuvre par les employeurs pour réduire ou restructurer leurs effectifs;
- b)** d'une convention collective;
- c)** d'une pratique établie de l'employeur.

Adverse impact on employment opportunities

(3) Notwithstanding subsections (1) and (2), where, after a review under paragraph 9(1)(b), it appears that a right referred to in either of those subsections that is provided for under a collective agreement may have an adverse impact on the employment opportunities of persons in designated groups, the employer and its employees' representatives shall consult with each other concerning measures that may be taken to minimize the adverse impact.

Public sector

(4) The following are not, in relation to the public sector, employment barriers within the meaning of the Act, namely,

- (a)** priorities for appointment under the *Public Service Employment Act* or regulations made by the Public Service Commission; and
- (b)** workforce adjustment measures established by the Treasury Board, including measures set out in agreements relating to workforce adjustment, or by the Public Service Commission or any other portion of the public sector referred to in paragraphs 4(1)(c) and (d).

1995, c. 44, s. 8; 2003, c. 22, s. 164.

Analysis and review

9 (1) For the purpose of implementing employment equity, every employer shall

(a) collect information and conduct an analysis of the employer's workforce, in accordance with the regulations, in order to determine the degree of the under-representation of persons in designated groups in each occupational group in that workforce; and

(b) conduct a review of the employer's employment systems, policies and practices, in accordance with the regulations, in order to identify employment barriers against persons in designated groups that result from those systems, policies and practices.

Self-identification

(2) Only those employees who identify themselves to an employer, or agree to be identified by an employer, as Aboriginal peoples, members of visible minorities or persons with disabilities are to be counted as members of those designated groups for the purposes of implementing employment equity.

Modifications

(3) Par dérogation aux paragraphes (1) et (2), lorsqu'il est constaté, à l'occasion de l'étude effectuée en conformité avec l'alinéa 9(1)b), que l'exercice d'un droit d'ancienneté visé par ces paragraphes et prévu dans une convention collective peut avoir des effets négatifs sur les chances d'emploi de membres de groupes désignés, l'employeur et les représentants sont tenus de se consulter en vue de prendre les mesures souhaitables pour minimiser ces effets.

Secteur public

(4) En ce qui concerne le secteur public, ne constituent pas des obstacles à la carrière au sens de la présente loi :

- a)** les priorités en matière de nomination établies en vertu de la *Loi sur l'emploi dans la fonction publique* ou des règlements pris par la Commission de la fonction publique;
- b)** les mesures de restructuration des effectifs prises par le Conseil du Trésor, notamment celles qui figurent dans les accords portant sur le réaménagement des effectifs, et par la Commission de la fonction publique ou les autres éléments du secteur public visés aux alinéas 4(1) c) et d).

1995, ch. 44, art. 8; 2003, ch. 22, art. 164.

Analyses

9 (1) En vue de réaliser l'équité en matière d'emploi, il incombe à l'employeur :

a) conformément aux règlements, de recueillir des renseignements sur son effectif et d'effectuer des analyses sur celui-ci afin de mesurer la sous-représentation des membres des groupes désignés dans chaque catégorie professionnelle;

b) d'étudier ses systèmes, règles et usages d'emploi, conformément aux règlements, afin de déterminer les obstacles en résultant pour les membres des groupes désignés.

Auto-identification

(2) En vue de réaliser l'équité en matière d'emploi, seuls sont pris en compte dans les groupes correspondants les salariés qui s'identifient auprès de l'employeur, ou acceptent de l'être par lui, comme autochtones, personnes handicapées ou faisant partie des minorités visibles.

Confidentiality of information

(3) Information collected by an employer under paragraph (1)(a) is confidential and shall be used only for the purpose of implementing the employer's obligations under this Act.

1995, c. 44, s. 9; 2017, c. 26, s. 19(E).

Employment equity plan

10 (1) The employer shall prepare an employment equity plan that

(a) specifies the positive policies and practices that are to be instituted by the employer in the short term for the hiring, training, promotion and retention of persons in designated groups and for the making of reasonable accommodations for those persons, to correct the underrepresentation of those persons identified by the analysis under paragraph 9(1)(a);

(b) specifies the measures to be taken by the employer in the short term for the elimination of any employment barriers identified by the review under paragraph 9(1)(b);

(c) establishes a timetable for the implementation of the matters referred to in paragraphs (a) and (b);

(d) where underrepresentation has been identified by the analysis, establishes short term numerical goals for the hiring and promotion of persons in designated groups in order to increase their representation in each occupational group in the workforce in which underrepresentation has been identified and sets out measures to be taken in each year to meet those goals;

(e) sets out the employer's longer term goals for increasing the representation of persons in designated groups in the employer's workforce and the employer's strategy for achieving those goals; and

(f) provides for any other matter that may be prescribed.

Establishment of numerical goals

(2) In establishing the short term numerical goals referred to in paragraph (1)(d), every employer shall consider

(a) the degree of underrepresentation of persons in each designated group in each occupational group within the employer's workforce;

(b) the availability of qualified persons in designated groups within the employer's workforce and in the Canadian workforce;

Confidentialité des renseignements

(3) Les renseignements recueillis par l'employeur dans le cadre de l'alinéa (1)a) sont confidentiels et ne peuvent être utilisés que pour permettre à l'employeur de remplir ses obligations dans le cadre de la présente loi.

1995, ch. 44, art. 9; 2017, ch. 26, art. 19(A).

Plan

10 (1) L'employeur est tenu d'élaborer un plan d'équité en matière d'emploi comportant les éléments suivants :

a) les règles et usages positifs à instituer à court terme d'une part en matière de recrutement, de formation, d'avancement et de maintien en fonction des membres des groupes désignés et, d'autre part, pour la prise de mesures d'adaptation raisonnables à leur égard, afin de corriger la sous-représentation constatée par l'analyse visée à l'alinéa 9(1)a);

b) les mesures à prendre à court terme en vue de la suppression des obstacles déterminés par l'étude visée à l'alinéa 9(1)b);

c) le calendrier de mise en œuvre des mesures et des règles et usages;

d) si l'analyse révèle une sous-représentation au sein de son effectif, les objectifs quantitatifs à court terme de recrutement et d'avancement des membres des groupes désignés visant à la corriger dans chaque catégorie professionnelle où il existe une sous-représentation, de même que les mesures à prendre chaque année en vue d'atteindre ces objectifs;

e) ses objectifs à long terme en vue de l'augmentation de la représentation des membres des groupes désignés dans son effectif et sa stratégie pour atteindre ces objectifs;

f) tout autre élément prévu par règlement.

Facteurs

(2) Dans l'établissement des objectifs quantitatifs à court terme, l'employeur tient compte des facteurs suivants :

a) la sous-représentation des membres des groupes désignés dans chaque catégorie professionnelle de son effectif;

b) la disponibilité de membres compétents des groupes désignés dans son effectif ainsi que dans la population apte au travail;

- (c) the anticipated growth or reduction of the employer's workforce during the period in respect of which the numerical goals apply;
- (d) the anticipated turnover of employees within the employer's workforce during the period in respect of which the numerical goals apply; and
- (e) any other factor that may be prescribed.

Definitions

(3) In this section, "short term" means a period of not less than one year and not more than three years, and "longer term" means a period of more than three years.

Reasonable progress

11 Every employer shall ensure that its employment equity plan would, if implemented, constitute reasonable progress toward implementing employment equity as required by this Act.

Implementation and monitoring of plan

12 Every employer shall

- (a) make all reasonable efforts to implement its employment equity plan; and
- (b) monitor implementation of its plan on a regular basis to assess whether reasonable progress toward implementing employment equity is being made.

Periodic review and revision of plan

13 Every employer shall, at least once during the period in respect of which the short term numerical goals referred to in paragraph 10(1)(d) are established, review its employment equity plan and revise it by

- (a) updating the numerical goals, taking into account the factors referred to in subsection 10(2); and
- (b) making any other changes that are necessary as a result of an assessment made pursuant to paragraph 12(b) or as a result of changing circumstances.

Information about employment equity

14 Every employer shall provide information to its employees explaining the purpose of employment equity and shall keep its employees informed about measures the employer has undertaken or is planning to undertake to implement employment equity and the progress the employer has made in implementing employment equity.

- c) l'augmentation ou la réduction prévue de son effectif au cours de la période visée par les objectifs;
- d) le roulement prévu au sein de son effectif au cours de la période visée par les objectifs;
- e) tout autre facteur prévu par règlement.

Définitions

(3) Pour l'application du présent article, le court terme s'entend d'une période comprise entre un an et trois ans, et le long terme d'une période supérieure à trois ans.

Progrès raisonnables

11 L'employeur est tenu de veiller à ce que la mise en œuvre de son plan d'équité en matière d'emploi se traduise par des progrès raisonnables dans la réalisation de l'équité en matière d'emploi visée par la présente loi.

Mise en œuvre et suivi du plan

12 Il incombe à l'employeur de prendre toutes les mesures raisonnables en vue de la mise en œuvre de son plan et d'assurer le suivi régulier de celle-ci pour contrôler si des progrès raisonnables sont réalisés.

Révision périodique

13 Au moins une fois au cours de la période pour laquelle les objectifs quantitatifs à court terme sont fixés, l'employeur procède à la révision de son plan en lui apportant les aménagements rendus nécessaires du fait du suivi ou du changement de sa situation et en adaptant les objectifs quantitatifs, compte tenu des facteurs visés au paragraphe 10(2).

Information à fournir aux salariés

14 L'employeur informe ses salariés sur l'objet de l'équité en matière d'emploi et leur fait part des mesures qu'il a prises ou qu'il entend prendre pour réaliser l'équité en matière d'emploi, ainsi que des progrès qu'il a accomplis dans ce domaine.

Consultation with employee representatives

15 (1) Every employer shall consult with its employees' representatives by inviting the representatives to provide their views concerning

(a) the assistance that the representatives could provide to the employer to facilitate the implementation of employment equity in its workplace and the communication to its employees of matters relating to employment equity; and

(b) the preparation, implementation and revision of the employer's employment equity plan.

Where employees represented by bargaining agents

(2) Where employees are represented by a bargaining agent, the bargaining agent shall participate in a consultation under subsection (1).

Collaboration

(3) Every employer and its employees' representatives shall collaborate in the preparation, implementation and revision of the employer's employment equity plan.

Rule of interpretation

(4) Consultation under subsection (1) and collaboration under subsection (3) are not forms of co-management.

New employers

16 (1) A person who becomes an employer after the day on which this section comes into force shall, within eighteen months after becoming an employer, comply with sections 9 and 10.

Compliance audit

(2) The Commission may not conduct a compliance audit of the discharge of the obligations of a person referred to in subsection (1) within two years after the day on which that person becomes an employer.

Records and Reports

Employment equity records

17 Every employer shall, in accordance with the regulations, establish and maintain employment equity records in respect of the employer's workforce, the employer's employment equity plan and the implementation of employment equity by the employer.

Reports of private sector employers

18 (1) Every private sector employer shall, on or before June 1 in each year, file with the Minister a report in respect of the immediately preceding calendar year

Consultation des représentants des salariés

15 (1) L'employeur consulte les représentants des salariés et les invite à donner leur avis sur les questions suivantes :

a) l'assistance que les représentants pourraient apporter à l'employeur pour faciliter la réalisation de l'équité en matière d'emploi au sein de l'effectif et la communication aux salariés de questions liées à l'équité en matière d'emploi;

b) l'élaboration, la mise en œuvre et la révision de son plan d'équité en matière d'emploi.

Obligation des représentants

(2) Lorsque les salariés sont représentés par des agents négociateurs, ceux-ci sont tenus de participer aux consultations.

Collaboration

(3) L'employeur et les représentants des salariés doivent collaborer à l'élaboration, la mise en œuvre et la révision du plan d'équité en matière d'emploi.

Règle d'interprétation

(4) La consultation et la collaboration visées au présent article ne sont pas une forme de cogestion.

Nouveaux employeurs

16 (1) Quiconque devient un employeur après l'entrée en vigueur du présent article dispose alors de dix-huit mois pour se conformer aux articles 9 et 10.

Contrôle d'application

(2) Le nouvel employeur visé au paragraphe (1) ne peut faire l'objet d'un contrôle d'application avant l'expiration de deux ans à compter du jour où il devient un employeur.

Dossiers et rapports

Dossiers à tenir

17 L'employeur tient, conformément aux règlements, des dossiers d'équité en matière d'emploi concernant son effectif, son plan et la réalisation de l'équité en matière d'emploi.

Rapport de l'employeur du secteur privé

18 (1) Au plus tard le 1^{er} juin de chaque année, l'employeur du secteur privé dépose auprès du ministre, pour l'année civile précédente, un rapport comportant les

containing information in accordance with prescribed instructions, indicating, in the prescribed manner and form,

- (a)** the industrial sector in which its employees are employed, the location of the employer and its employees, the number of its employees and the number of those employees who are members of designated groups;
- (b)** the occupational groups in which its employees are employed and the degree of representation of persons who are members of designated groups in each occupational group;
- (c)** the salary ranges of its employees and the degree of representation of persons who are members of designated groups in each range and in each prescribed subdivision of the range and any other information in relation to the salary of its employees that may be prescribed; and
- (d)** the number of its employees hired, promoted and terminated and the degree of representation in those numbers of persons who are members of designated groups.

Interpretation

(2) For the purposes of subsection (1), an employer is the person who or organization that was the employer on December 31 in the immediately preceding year.

Electronic filing

(3) An employer may file a report using electronic media in a manner specified in writing by the Minister and, in such a case, the report is deemed to have been filed on the day that the Minister acknowledges receipt of it.

Self-identification

(4) Only those employees who identify themselves to their employer, or agree to be identified by their employer, as Aboriginal peoples, members of visible minorities and persons with disabilities are to be counted as members of those designated groups for the purposes of the report.

Certificate required

(5) A report shall be certified, in the prescribed manner, as to the accuracy of the information contained in it and shall be signed by the employer or, where the employer is a corporation, by a prescribed person on behalf of the corporation.

renseignements conformes aux instructions réglementaires, et établi en la forme et selon les modalités réglementaires, qui donne les renseignements suivants :

- a)** les branches d'activité de ses salariés, le lieu de son établissement et le lieu de travail de ses salariés, le nombre de ceux-ci et celui des membres des groupes désignés qui en font partie;
- b)** les catégories professionnelles qui composent son personnel et la représentation des membres de ces groupes dans chacune d'elles;
- c)** les échelles de rémunération de ses salariés et la représentation des membres de ces groupes figurant à chacune d'elles ou à chacun de leurs échelons réglementaires, ainsi que tout autre renseignement relatif à la rémunération de ses salariés prévu par règlement;
- d)** le nombre des recrutements, des avancements et des cessations de fonctions ainsi que, dans chaque cas, la représentation des membres des mêmes groupes.

Définition de *employeur*

(2) Pour l'application du paragraphe (1), l'employeur est l'employeur au 31 décembre de l'année visée par le rapport.

Transmission électronique

(3) L'employeur peut transmettre le rapport par voie électronique selon les modalités que le ministre établit par écrit; le rapport est alors réputé déposé auprès du ministre le jour où celui-ci en accuse réception.

Auto-identification

(4) Pour l'application du paragraphe (1), seuls sont pris en compte dans les groupes correspondants les salariés qui s'identifient auprès de l'employeur, ou acceptent de l'être par lui, comme autochtones, personnes handicapées ou faisant partie des minorités visibles.

Attestation d'exactitude

(5) L'exactitude des renseignements fournis dans le rapport visé au paragraphe (1) est attestée selon les modalités réglementaires. L'attestation est signée par l'employeur ou, dans le cas d'une personne morale, par son mandataire désigné par règlement.

Additional information

(6) An employer shall include in a report a description of

- (a)** the measures taken by the employer during the reporting period to implement employment equity and the results achieved; and
- (b)** the consultations between the employer and its employees' representatives during the reporting period concerning the implementation of employment equity.

Consolidated reports

(7) Where, in the opinion of the Minister, associated or related federal works, undertakings or businesses are operated by two or more employers having common control or direction, the Minister may, on the application of the employers, authorize them to file a consolidated report with respect to employees employed by them on or in connection with those works, undertakings or businesses.

Exemption for private sector employers

(8) The Minister may, on the application of an employer, exempt the employer from any or all of the requirements of this section for a period not exceeding one year if, in the opinion of the Minister, special circumstances warrant the exemption.

Copy to employees' representatives

(9) An employer shall, on filing a report with the Minister under this section, provide its employees' representatives with a copy of the report.

Copy to Commission

(10) The Minister shall, on receipt of a report, send a copy of it to the Commission.

1995, c. 44, s. 18; 2017, c. 26, s. 19(E); 2019, c. 29, s. 127.

Availability of reports of private sector employers

19 (1) Subject to subsection (2), every report filed under subsection 18(1) shall be available for public inspection at such places as may be designated, and in such form as may be determined, by the Minister, and any person may, on payment of a prescribed fee, not to exceed the costs of furnishing a copy, obtain from the Minister a copy of any of the reports.

Withholding of report

(2) The Minister may, on the application of an employer, withhold the employer's report from public inspection for a period not exceeding one year if, in the opinion of the Minister, special circumstances warrant the withholding.

Renseignements supplémentaires

(6) L'employeur ajoute dans son rapport les éléments suivants :

- a)** l'énoncé des mesures prises en vue de réaliser l'équité en matière d'emploi et les résultats obtenus;
- b)** le compte rendu des consultations tenues avec les représentants en vue de réaliser l'équité en matière d'emploi.

Employeur unique

(7) Pour l'application de la présente loi, le ministre peut, sur demande, autoriser les employeurs qui, à son avis, exploitent des entreprises fédérales associées ou connexes, à déposer un seul rapport à l'égard des salariés qu'ils emploient dans le cadre de ces entreprises.

Exemptions de rapport

(8) Le ministre peut, sur demande, exempter pour une période d'au plus un an un employeur de l'une ou l'autre des obligations prévues au présent article si, à son avis, des circonstances spéciales le justifient.

Copie aux représentants

(9) Dès qu'il dépose un rapport auprès du ministre, l'employeur en remet une copie aux représentants.

Copie à la Commission

(10) Dès qu'il reçoit un rapport, le ministre en fait parvenir une copie à la Commission.

1995, ch. 44, art. 18; 2017, ch. 26, art. 19(A); 2019, ch. 29, art. 127.

Rapports mis à la disposition du public

19 (1) Sous réserve du paragraphe (2), le public peut consulter les rapports visés au paragraphe 18(1) aux lieux et en la forme désignés par le ministre et en obtenir un exemplaire auprès de celui-ci contre versement d'un droit réglementaire n'excédant pas le prix coûtant.

Discretion ministérielle

(2) À la demande de l'employeur, le ministre peut retenir le rapport pour une période maximale d'un an si, à son avis, des circonstances spéciales justifient le report de la mise à disposition.

Consolidation to be tabled

20 The Minister shall in each year prepare a report consisting of a consolidation of the reports filed under subsection 18(1) together with an analysis of those reports and shall cause the report to be laid before each House of Parliament not later than the fifteenth sitting day that that House of Parliament is sitting after the report is completed.

Report of Treasury Board

21 (1) The President of the Treasury Board shall, in each fiscal year, cause to be laid before each House of Parliament a report in respect of the state of employment equity in the portions of the federal public administration referred to in paragraph 4(1)(b) during the immediately preceding fiscal year.

Contents of report

(2) The report referred to in subsection (1) shall consist of

(a) a consolidation and analysis of

(i) the number of employees employed in each portion of the federal public administration referred to in paragraph 4(1)(b) and the number of persons who are members of each designated group so employed,

(ii) the total number of employees employed in all portions of the federal public administration referred to in paragraph 4(1)(b) in each province and in the National Capital Region and the number of persons who are members of each designated group so employed,

(iii) the occupational groups of employees and the degree of representation of persons who are members of each designated group in each occupational group,

(iv) the salary ranges of employees and the degree of representation of persons who are members of each designated group in each range and in any subdivision of the range, and

(v) the numbers of employees hired, promoted and terminated and the degree of representation, in those numbers, of persons who are members of each designated group;

(b) a description of the principal measures taken by the Treasury Board during the reporting period to implement employment equity and the results achieved;

Regroupement des rapports du secteur privé à déposer devant le Parlement

20 Chaque année le ministre regroupe les rapports visés au paragraphe 18(1) en un rapport unique qu'il assortit d'une analyse. Il le fait déposer devant chaque chambre du Parlement dans les quinze premiers jours de séance de celle-ci suivant son achèvement.

Rapport du Conseil du Trésor

21 (1) À chaque exercice, le président du Conseil du Trésor fait déposer devant chaque chambre du Parlement un rapport sur la situation en ce qui touche l'équité en matière d'emploi au sein des secteurs de l'administration publique fédérale visés à l'alinéa 4(1) b) pour le précédent exercice.

Contenu du rapport

(2) Le rapport donne :

a) la présentation et l'analyse des renseignements suivants :

(i) le nombre de salariés travaillant au sein de chaque secteur de l'administration publique fédérale mentionné à l'alinéa 4(1)b) et celui des membres de chacun des groupes désignés qui en font partie,

(ii) le nombre de salariés de l'ensemble des secteurs de l'administration publique fédérale mentionnés à l'alinéa 4(1)b) dans chaque province et dans la région de la Capitale nationale, et celui des membres de chacun des groupes désignés qui en font partie,

(iii) les catégories professionnelles des salariés et la représentation des membres de chacun de ces groupes dans chacune d'elles,

(iv) les échelles de rémunération des salariés et la représentation des membres de chacun de ces groupes figurant à chacune d'elles ou à chacun de leurs échelons,

(v) le nombre des recrutements, des avancements et des cessations d'emploi ainsi que, dans chaque cas, la représentation des membres de chacun de ces groupes;

b) l'énoncé des principales mesures prises par le Conseil du Trésor en vue de réaliser l'équité en matière d'emploi et les résultats obtenus;

- (c) a description of the consultations between the Treasury Board and its employees' representatives during the reporting period concerning the implementation of employment equity; and
- (d) any other information that the President of the Treasury Board considers relevant.

Requirement to provide information

(3) Each portion of the public sector referred to in paragraphs 4(1)(c) and (d), other than the Canadian Security Intelligence Service, shall, within six months after the end of each fiscal year, provide to the President of the Treasury Board a report containing the information referred to in subsection (4) in relation to that portion during that fiscal year and the President shall cause the reports, together with the report referred to in subsection (1), to be laid before each House of Parliament.

Contents of report

- (4)** A report referred to in subsection (3) shall consist of
- (a) the information referred to in subparagraphs (2)(a)(i) to (v) in relation to that portion;
 - (b) an analysis of the information referred to in paragraph (a); and
 - (c) the information referred to in paragraphs (2)(b) to (d) in relation to that portion.

Requirement to provide information

(5) The Canadian Security Intelligence Service shall, within six months after the end of each fiscal year, provide to the President of the Treasury Board a report containing the information referred to in subsection (6) in relation to that portion during that fiscal year and the President shall cause the report, together with the report referred to in subsection (1), to be laid before each House of Parliament.

Contents of report

- (6)** A report referred to in subsection (5) shall consist of
- (a) the percentage of employees employed in that portion who are members of each designated group;
 - (b) the occupational groups of employees in that portion and the percentage of persons who are members of each designated group in each occupational group;
 - (c) the salary ranges of employees in that portion and the percentage of persons who are members of each

- (c) le compte rendu des consultations tenues avec les représentants en vue de réaliser l'équité en matière d'emploi;
- (d) les autres renseignements que le président du Conseil du Trésor juge utiles.

Obligation de fournir les renseignements

(3) Les éléments du secteur public visés aux alinéas 4(1)c ou d), à l'exception du Service canadien du renseignement de sécurité, sont tenus chacun de fournir au président du Conseil du Trésor, dans les six premiers mois de chaque exercice, un rapport sur l'état de l'équité en matière d'emploi au sein de l'élément à la fin de l'exercice précédent donnant les renseignements mentionnés au paragraphe (4), le président étant tenu de les faire déposer devant chaque chambre du Parlement avec le rapport visé au paragraphe (1).

Contenu du rapport

- (4)** Le rapport donne :

- (a) les renseignements visés aux sous-alinéas (2)a)(i) à (v) en ce qui a trait à l'élément;
- (b) l'analyse de ces renseignements;
- (c) les renseignements visés aux alinéas (2)b) à d) en ce qui a trait à l'élément.

Obligation de fournir les renseignements

(5) Le Service canadien du renseignement de sécurité est tenu de fournir au président du Conseil du Trésor, dans les six premiers mois de chaque exercice, un rapport sur l'état de l'équité en matière d'emploi au sein de l'élément à la fin de l'exercice précédent donnant les renseignements mentionnés au paragraphe (6), le président étant tenu de le faire déposer devant chaque chambre du Parlement avec le rapport visé au paragraphe (1).

Contenu du rapport

- (6)** Le rapport donne :

- (a) le pourcentage des salariés travaillant au sein de l'élément qui sont membres de chacun des groupes désignés;
- (b) les catégories professionnelles des salariés de l'élément et le pourcentage des membres de chacun de ces groupes dans chacune d'elles;
- (c) les échelles de rémunération des salariés et le pourcentage des membres de chacun de ces groupes

designated group in each range and in any subdivision of the range;

- (d)** the percentage of employees hired, promoted and terminated in that portion who are members of each designated group;
- (e)** an analysis of the information referred to in paragraphs (a) to (d); and
- (f)** the information referred to in paragraphs (2)(b) to (d) in relation to that portion.

Copy to Commission

(7) The President of the Treasury Board shall, as soon as possible after a report referred to in any of subsections (1), (3) and (5) is laid before each House of Parliament, send a copy of the report to the Commission.

Copies to employees' representatives

(8) As soon as possible after a report referred to in this section is laid before each House of Parliament,

- (a)** in the case of a report referred to in subsection (1), the President of the Treasury Board,
- (b)** in the case of a report referred to in subsection (3), each portion of the public sector referred to in that subsection, and
- (c)** in the case of a report referred to in subsection (5), the Canadian Security Intelligence Service,

shall send a copy of the report to its employees' representatives.

1995, c. 44, s. 21; 2003, c. 22, s. 165.

PART II

Compliance

Compliance Audits

Compliance audits

22 (1) The Commission is responsible for the enforcement of the obligations imposed on employers by sections 5, 9 to 15 and 17.

Guiding policy

(2) The Commission shall, in discharging its responsibility under subsection (1), be guided by the policy that, wherever possible, cases of non-compliance be resolved through persuasion and the negotiation of written undertakings pursuant to subsection 25(1) and that directions

figurant à chacune d'elles ou à chacun de leurs échelons;

- d)** le pourcentage des recrutements, des avancements et des cessations d'emploi pour chacun de ces groupes;
- e)** l'analyse de ces renseignements;
- f)** les renseignements visés aux alinéas (2)b) à d) en ce qui a trait à l'élément.

Envoi d'exemplaires à la Commission

(7) Dans les meilleurs délais suivant le dépôt d'un rapport devant les chambres du Parlement, le président du Conseil du Trésor en envoie un exemplaire à la Commission.

Envoi d'exemplaires aux représentants

(8) Dans les meilleurs délais suivant le dépôt d'un rapport devant les chambres du Parlement, un exemplaire de celui-ci est envoyé aux représentants :

- a)** dans le cas du rapport visé au paragraphe (1), par le président du Conseil du Trésor;
- b)** dans le cas du rapport visé au paragraphe (3), par les éléments du secteur public visés à ce paragraphe;
- c)** dans le cas du rapport visé au paragraphe (5), par le Service canadien du renseignement de sécurité.

1995, ch. 44, art. 21; 2003, ch. 22, art. 165.

PARTIE II

Application

Contrôle d'application

Contrôle d'application

22 (1) La Commission est responsable de la détermination de l'observation par les employeurs des articles 5, 9 à 15 et 17.

Orientation générale

(2) Dans l'exercice de la responsabilité que lui confère le paragraphe (1), la Commission est tenue, en cas de non-observation, de mettre en œuvre, dans toute la mesure du possible, une politique de règlement négocié en vue de l'obtention d'un engagement sous le régime du

be issued under subsection 25(2) or (3) and applications for orders be made under subsection 27(2) only as a last resort.

Compliance officers designated

(3) The Commission may designate any person or category of persons as employment equity compliance review officers for the purposes of conducting compliance audits of employers.

Where compliance officer may not act

(4) No person who has been designated as an investigator under section 43 of the *Canadian Human Rights Act* to investigate a complaint under that Act in respect of an employer may, during the investigation, conduct a compliance audit of that employer.

Delegation by Commission

(5) The Commission may authorize any officer or employee of the Commission whom the Commission considers appropriate to exercise any power and perform any duty or function of the Commission under this Act and any power so exercised and any duty or function so performed shall be deemed to have been exercised or performed by the Commission.

Powers of compliance officers

23 (1) For the purposes of ensuring compliance with the provisions referred to in subsection 22(1), a compliance officer may conduct a compliance audit of an employer and, for that purpose, may

(a) at any reasonable time, enter any place in which the officer believes on reasonable grounds there is anything relevant to the enforcement of any of those provisions; and

(b) require any person to produce for examination or copying any record, book of account or other document that the officer believes on reasonable grounds contains information that is relevant to the enforcement of any of those provisions.

Data processing systems and copying equipment

(2) In conducting a compliance audit, a compliance officer may

(a) reproduce or cause to be reproduced any record from a data processing system in the form of a print-out or other intelligible output and remove the print-out or other output for examination and copying; and

paragraphe 25(1) et de n'avoir recours aux ordres et ordonnances respectivement visés aux paragraphes 25(2) et (3) et 27(2) qu'en dernier lieu.

Désignation

(3) La Commission peut désigner toute personne, à titre individuel ou collectif, comme agent de vérification de la conformité à l'équité en matière d'emploi.

Restriction

(4) La personne chargée en vertu de l'article 43 de la *Loi canadienne sur les droits de la personne* de faire enquête sur une plainte déposée sous le régime de cette loi à l'égard d'un employeur ne peut, tant que dure l'enquête, être désignée à titre d'agent d'application à l'égard du même employeur.

Délégation par la Commission

(5) La Commission peut déléguer à ses agents qu'elle estime qualifiés l'exercice des attributions que lui confère la présente loi; les actes du déléguant sont alors réputés être ceux de la Commission.

Attributions des agents d'application

23 (1) Pour contrôler l'observation des articles mentionnés au paragraphe 22(1), l'agent d'application peut procéder à un contrôle d'application de l'employeur et :

a) à toute heure convenable, procéder à la visite de tout lieu où il croit, pour des motifs raisonnables, pouvoir trouver tout objet lié à l'application de la présente loi ou de ses règlements;

b) exiger, aux fins d'examen ou de reproduction, la communication des registres, des livres de comptes ou d'autres documents où il croit, pour des motifs raisonnables, pouvoir trouver des renseignements utiles.

Données

(2) Dans le cadre de sa visite, l'agent peut :

a) obtenir les documents sous forme d'imprimé ou toute autre forme intelligible à partir de tout système informatique et les emporter aux fins d'examen ou de reproduction;

b) utiliser ou faire utiliser le matériel de reprographie se trouvant sur place pour reproduire les documents.

- (b)** use or cause to be used any copying equipment at the place to make copies of any record, book of account or other document.

Certificate to be produced

(3) Compliance officers shall be furnished with certificates in a form established by the Commission certifying their designation as compliance officers and, on entering a place under paragraph (1)(a), a compliance officer shall show the certificate to the person in charge of the place if the person requests proof of the officer's designation.

Assistance to compliance officers

(4) The person in charge of a place entered pursuant to paragraph (1)(a) and every person found in the place shall

(a) give the compliance officer all reasonable assistance to enable the officer to exercise the powers conferred on compliance officers by this section; and

(b) provide the officer with any information relevant to the enforcement of this Act that the officer may reasonably require.

Security requirements

24 Every compliance officer or any other person acting on behalf of or under the direction of the Commission who receives or obtains information relating to a compliance audit under this Act shall, with respect to access to and use of that information by that compliance officer or person, satisfy any security requirements applicable to, and take any oath of secrecy required to be taken by, persons who normally have access to and use of that information.

Undertakings and Directions

Employer undertaking

25 (1) Where a compliance officer is of the opinion that an employer

(a) has not collected information or conducted an analysis referred to in paragraph 9(1)(a) or conducted a review referred to in paragraph 9(1)(b),

(b) has not prepared an employment equity plan referred to in section 10,

(c) has prepared an employment equity plan that does not meet the requirements of sections 10 and 11,

Certificat à produire

(3) L'agent reçoit un certificat établi en la forme fixée par la Commission et attestant sa qualité, qu'il présente, sur demande, au responsable du lieu visité.

Assistance à donner aux agents d'application

(4) Le responsable du lieu visité, ainsi que toute personne qui s'y trouve, est tenu d'accorder à l'agent toute l'assistance possible dans l'exercice des pouvoirs qui lui sont conférés par le présent article et de lui fournir les renseignements qu'il peut valablement exiger pour l'application de la présente loi ou de ses règlements.

Respect des normes de sécurité

24 Les personnes — agents de la Commission ou autres personnes agissant au nom de la Commission ou sous son autorité — appelées à recevoir ou à recueillir des renseignements dans le cadre des contrôles d'application prévus par la présente loi doivent, quant à l'accès à ces renseignements et à leur utilisation, respecter les normes de sécurité applicables et prêter les serments imposés à leurs usagers habituels.

Engagement de l'employeur et ordres

Engagement en cas de violation

25 (1) L'agent d'application avise l'employeur en conséquence et tente, par la négociation, d'obtenir de lui l'engagement écrit qu'il prendra les mesures correctives nécessaires pour remédier au manquement dans les cas où il estime que l'employeur :

a) n'a pas recueilli les renseignements ou procédé aux analyses ou études visés aux alinéas 9(1)a) et b);

b) n'a pas établi de plan d'équité en matière d'emploi en conformité avec l'article 10;

c) en a établi un qui n'est pas conforme aux exigences des articles 10 et 11;

- (d)** has not made all reasonable efforts to implement its employment equity plan in accordance with section 12,
- (e)** has failed to review and revise its employment equity plan in accordance with section 13,
- (f)** has failed to provide information to its employees in accordance with section 14,
- (g)** has failed to consult with its employees' representatives in accordance with section 15, or
- (h)** has failed to establish and maintain employment equity records as required by section 17,

the compliance officer shall inform the employer of the non-compliance and shall attempt to negotiate a written undertaking from the employer to take specified measures to remedy the non-compliance.

Information re underrepresentation

(1.1) Where

- (a)** an employer has been informed of a non-compliance by a compliance officer under subsection (1) and the finding of non-compliance is based, in whole or in part, on the apparent underrepresentation of Aboriginal peoples, members of visible minorities or persons with disabilities in the employer's work force, as reflected in the employer's work force analysis conducted pursuant to paragraph 9(1)(a), and
- (b)** the employer believes that the apparent underrepresentation is attributable to the decision of employees who may be members of the designated groups concerned not to identify themselves as such or not to agree to be identified by the employer as such under subsection 9(2),

the employer may inform the compliance officer of such belief.

Reason for underrepresentation to be considered

(1.2) Where the employer satisfies the compliance officer that the finding of non-compliance is attributable, in whole or in part, to the reason described in paragraph (1.1)(b) and that the employer has made all reasonable efforts to implement employment equity, the compliance officer shall take the reason into account in exercising any powers under this section.

No employer identification of individual employees

(1.3) In satisfying the compliance officer under subsection (1.2) that the finding of non-compliance is attributable, in whole or in part, to the reason mentioned

- d)** n'a pas pris toutes les mesures raisonnables de mise en œuvre en conformité avec l'article 12;
- e)** n'a pas révisé son plan en conformité avec l'article 13;
- f)** n'a pas donné à ses salariés les renseignements visés à l'article 14;
- g)** n'a pas consulté les représentants conformément à l'article 15;
- h)** n'a pas tenu les dossiers que prévoit l'article 17.

Renseignements relatifs à une apparente sous-représentation

(1.1) Dans le cas d'un manquement fondé en tout ou en partie sur une apparente sous-représentation au sein de son effectif des autochtones, des personnes handicapées ou des personnes qui font partie des minorités visibles, mesurée après l'analyse visée à l'alinéa 9(1)a), l'employeur peut, s'il croit que cette apparente sous-représentation est due au défaut des salariés qui pourraient faire partie du ou des groupes désignés en question de s'identifier, ou d'accepter de l'être, comme membres du groupe conformément au paragraphe 9(2), en informer l'agent d'application.

Prise en compte des renseignements

(1.2) Si l'employeur le convainc que le manquement est dû, en tout ou en partie, au défaut des salariés qui font partie du ou des groupes désignés en question de s'identifier, ou d'accepter de l'être, et qu'il a pris les mesures raisonnables pour réaliser l'équité en matière d'emploi, l'agent d'application en tient compte dans l'exercice des pouvoirs que lui confère le présent article.

L'employeur ne peut identifier les salariés

(1.3) L'employeur ne peut, dans le but de convaincre l'agent d'application que le manquement est dû en tout ou en partie à ce défaut, identifier les salariés de son

in paragraph (1.1)(b), the employer must do so by means other than the identification of individual employees in its work force that the employer believes are members of designated groups who have not identified themselves as such, or agreed to be identified by the employer as such, under subsection 9(2).

Direction

(2) Where a compliance officer fails to obtain a written undertaking that, in the opinion of the compliance officer, would be sufficient to remedy the non-compliance, the compliance officer shall notify the Commission of the non-compliance and the Commission may issue and send, by registered mail, a direction to the employer

(a) setting out the facts on which the officer's finding of non-compliance is based; and

(b) requiring the employer to take such actions as are specified in the direction to remedy the non-compliance.

Breach of undertaking

(3) Where a compliance officer obtains a written undertaking and the compliance officer is of the opinion that the employer has breached the undertaking, the compliance officer shall notify the Commission of the non-compliance and the Commission may issue and send, by registered mail, a direction to the employer requiring the employer to take such actions as are specified in the direction to remedy the non-compliance.

Amendment of direction

(4) The Commission may rescind or amend a direction issued by the Commission pursuant to subsection (2) or (3) on the presentation of new facts or on being satisfied that the direction was issued without knowledge of, or was based on a mistake as to, a material fact.

1995, c. 44, s. 25; 2017, c. 26, art. 19(E).

Direction of Commission

26 (1) Where a compliance officer is of the opinion that an employer has failed to give reasonable assistance or to provide information as required by subsection 23(4), the compliance officer shall notify the Commission of the non-compliance and the Commission may issue and send, by registered mail, a direction to the employer

(a) setting out the facts on which the officer's finding of non-compliance is based; and

(b) requiring the employer to take such actions as are specified in the direction to remedy the non-compliance.

effectif qui, selon lui, font partie du groupe désigné et ne se sont pas identifiés ou n'ont pas accepté de l'être au titre du paragraphe 9(2).

Ordre

(2) S'il ne parvient pas à obtenir un engagement qui, selon lui, permettrait de remédier au manquement, l'agent informe la Commission du manquement et celle-ci peut ordonner à l'employeur, par courrier recommandé, de prendre les mesures correctives, en y précisant les faits justificatifs.

Défaut de respecter un engagement

(3) S'il estime que l'employeur ne se conforme pas à un engagement, l'agent en informe la Commission et celle-ci peut ordonner à l'employeur, par courrier recommandé, de prendre les mesures correctives.

Modification

(4) La Commission peut annuler ou modifier l'ordre si on lui présente des faits nouveaux ou si elle est convaincue qu'elle l'a donné sans avoir eu connaissance d'un fait essentiel ou en se fondant sur une erreur à l'égard d'un tel fait.

1995, ch. 44, art. 25; 2017, ch. 26, art. 19(A).

Ordre

26 (1) S'il estime qu'un employeur n'a pas accordé toute l'assistance possible ou n'a pas communiqué les documents exigés au titre du paragraphe 23(4), l'agent d'application en informe la Commission et celle-ci peut ordonner à l'employeur, par courrier recommandé, de prendre les mesures correctives, en y précisant les faits justificatifs.

Amendment of direction

(2) The Commission may rescind or amend a direction issued pursuant to subsection (1) on the presentation of new facts or on being satisfied that the direction was issued without knowledge of, or was based on a mistake as to, a material fact.

Requests for Review or Order

Employer's request for review

27 (1) An employer to whom a direction is issued under subsection 25(2) or (3) or 26(1) may make a request to the Chairperson for a review of the direction

(a) in the case of a direction issued under subsection 25(2) or (3), within sixty days after the day on which it is issued; and

(b) in the case of a direction issued under subsection 26(1), within thirty days after the day on which it is issued.

Commission may apply

(2) If the Commission is of the opinion that an employer has failed to comply with a direction issued by the Commission, the Commission may apply to the Chairperson for an order confirming the direction.

Limitation

(3) No application may be made pursuant to subsection (2) where the employer has requested a review in accordance with subsection (1).

1995, c. 44, s. 27; 1998, c. 9, s. 38.

Employment Equity Review Tribunals

Establishment of Tribunals

28 (1) If an employer makes a request under subsection 27(1) or the Commission makes an application under subsection 27(2), the Chairperson shall establish an Employment Equity Review Tribunal to consider the request or application.

Composition

(2) The Chairperson shall appoint a Tribunal consisting of one member of the Canadian Human Rights Tribunal, but the Chairperson may appoint a Tribunal of three members if the Chairperson considers that the complexity or precedential significance of the request or application requires a Tribunal of three members.

Modification

(2) La Commission peut annuler ou modifier l'ordre si on lui présente des faits nouveaux ou si elle est convaincue qu'elle l'a donné sans avoir eu connaissance d'un fait essentiel ou en commettant une erreur à l'égard d'un tel fait.

Demande de révision ou d'ordonnance

Demande de révision par l'employeur

27 (1) Dans les soixante jours après avoir fait l'objet de l'ordre visé aux paragraphes 25(2) ou (3) ou dans les trente jours après avoir fait l'objet de l'ordre visé au paragraphe 26(1), l'employeur peut demander au président de procéder à la révision de l'ordre.

Demande par la Commission

(2) Si elle estime que l'employeur n'a pas exécuté l'ordre, la Commission peut demander au président une ordonnance visant à le confirmer.

Restriction

(3) La Commission ne peut toutefois procéder à une telle demande si l'employeur a exercé le recours en révision dans le délai fixé.

1995, ch. 44, art. 27; 1998, ch. 9, art. 38.

Tribunal de l'équité en matière d'emploi

Constitution d'un tribunal

28 (1) Une fois saisi de la demande de révision de l'employeur ou de la demande de confirmation de la Commission, le président constitue un tribunal de l'équité en matière d'emploi pour l'instruire.

Composition

(2) Le tribunal est formé d'un membre choisi parmi les membres du Tribunal canadien des droits de la personne par son président; ce dernier peut toutefois constituer un tribunal de trois membres s'il estime que la difficulté ou la valeur jurisprudentielle de l'affaire le justifie.

Qualifications of members

(3) The Chairperson shall, in appointing members of the Tribunal, take into consideration their knowledge and experience in employment equity matters.

Presiding

(4) If a Tribunal consists of more than one member, the Chairperson shall designate one of the members to preside over the hearings of the Tribunal.

Acting after expiration of appointment

(4.1) A member whose appointment expires may, with the approval of the Chairperson, conclude any hearing that the member has begun, and a person performing duties under this section is deemed to be a part-time member for the purposes of subsection 48.2(2) of the *Canadian Human Rights Act*.

Remuneration

(5) The members of a Tribunal shall be paid such remuneration as may be provided for under subsection 48.6(1) of the *Canadian Human Rights Act*.

Travel expenses

(6) Members are entitled to be paid any travel and living expenses incurred in carrying out duties as members of the Tribunal while absent from their ordinary place of residence that may be provided for under subsection 48.6(2) of the *Canadian Human Rights Act*.

(7) [Repealed, 2014, c. 20, s. 463]

Government services and facilities

(8) In performing its duties and functions, a Tribunal shall, where available, make use of the services and facilities of departments, boards and agencies of the Government of Canada.

Rules

(9) The Chairperson may make rules governing the practice and procedure of Tribunals.

Security requirements

(10) Every member or other person acting on behalf of or under the direction of a Tribunal who receives or obtains information relating to a request or application referred to in subsection (1) shall, with respect to access to and use of that information by that member or other person, satisfy any security requirements applicable to, and

Qualifications

(3) Le président tient compte, pour la nomination des membres du tribunal, des connaissances et de l'expérience de ceux-ci dans le domaine de l'équité en matière d'emploi.

Présidence

(4) Si le tribunal se compose de plusieurs membres, le président désigne celui qui en assume la présidence.

Prolongation du mandat

(4.1) Le membre dont le mandat est échu peut, avec l'agrément du président, terminer les affaires dont il est saisi. Il est alors réputé être un membre à temps partiel pour l'application du paragraphe 48.2(2) de la *Loi canadienne sur les droits de la personne*.

Rémunération

(5) Les membres du tribunal reçoivent la rémunération prévue au paragraphe 48.6(1) de la *Loi canadienne sur les droits de la personne*.

Frais de déplacement

(6) Les membres ont droit aux frais de déplacement et autres entraînés par l'accomplissement, hors du lieu de leur résidence habituelle, des fonctions qui leur sont confiées en application de la présente loi et prévus au paragraphe 48.6(2) de la *Loi canadienne sur les droits de la personne*.

(7) [Abrogé, 2014, ch. 20, art. 463]

Services de l'administration publique fédérale

(8) Pour l'exercice de ses fonctions, le tribunal utilise, s'ils sont disponibles, les services et installations des ministères et organismes fédéraux.

Règles

(9) Le président peut établir les règles de procédure et de pratique des tribunaux.

Respect des normes de sécurité

(10) Les membres du tribunal et les personnes agissant au nom du tribunal ou sous son autorité qui sont appelés à recevoir ou à recueillir des renseignements dans le cadre des demandes visées au paragraphe (1) doivent, quant à l'accès à ces renseignements et à leur utilisation, respecter les normes de sécurité applicables et prêter les serments imposés à leurs usagers habituels.

1995, ch. 44, art. 28; 1998, ch. 9, art. 39; 2014, ch. 20, art. 463; 2017, ch. 26, art. 18.

take any oath of secrecy required to be taken by, persons who normally have access to and use of that information.

1995, c. 44, s. 28; 1998, c. 9, s. 39; 2014, c. 20, s. 463; 2017, c. 26, s. 18.

Powers of Tribunal

29 (1) A Tribunal may

(a) in the same manner and to the same extent as a superior court of record, summon and enforce the attendance of witnesses and compel them to give oral and written evidence on oath and to produce such documents and things as the Tribunal considers necessary for a full review;

(b) administer oaths; and

(c) receive and accept such evidence and other information, whether on oath or by affidavit or otherwise, as the Tribunal sees fit, whether or not that evidence or information would be admissible in a court of law.

How matters to be dealt with

(2) A Tribunal shall conduct any matter that comes before it as informally and expeditiously as the circumstances and considerations of fairness and natural justice permit.

Hearings to be public

(3) Subject to subsection (4), a hearing before a Tribunal shall be conducted in public.

Hearings may be *in camera*

(4) A hearing before a Tribunal may, on the request of an employer, be held *in camera* if the employer establishes to the satisfaction of the Tribunal that the circumstances of the case so require.

Reasons for decision

(5) A Tribunal shall provide the parties to a proceeding before the Tribunal with written reasons for its decision.

Reasons for decision

(6) A Tribunal shall, on request by any person, provide the person with a copy of any decision of the Tribunal, including a decision under subsection (4) to hold a hearing *in camera*, together with the written reasons for the decision.

Decision of Tribunal

30 (1) A Tribunal may, after hearing a request made under subsection 27(1) or an application made under subsection 27(2),

Pouvoirs du tribunal

29 (1) Le tribunal a le pouvoir :

a) d'assigner et de contraindre les témoins à comparaître, à déposer verbalement ou par écrit sous la foi du serment et à produire les pièces qu'il juge indispensables en l'espèce, au même titre qu'une cour supérieure d'archives;

b) de faire prêter serment;

c) de recevoir des éléments de preuve ou des renseignements par déclaration verbale ou écrite sous serment ou par tout autre moyen qu'il estime indiqué, indépendamment de leur admissibilité en justice.

Audiences

(2) Dans la mesure où les circonstances, l'équité et la justice naturelle le permettent, il appartient au tribunal d'agir rapidement et sans formalité.

Audience publique

(3) Sous réserve du paragraphe (4), l'audience est tenue en présence du public.

Huis clos

(4) L'audience peut être tenue à huis clos si l'employeur démontre au tribunal que les circonstances le justifient.

Motifs

(5) Le tribunal donne, par écrit, aux parties les motifs de son ordonnance.

Diffusion des ordonnances

(6) Le tribunal remet une copie de ses ordonnances, y compris celles qui portent sur la tenue d'une audience à huis clos dans le cadre du paragraphe (4), et des motifs écrits aux personnes qui en font la demande.

Ordonnance du tribunal

30 (1) Le tribunal peut, au terme de l'instruction, par ordonnance, confirmer, annuler ou modifier l'ordre et prendre toute mesure corrective qu'il estime indiquée en l'espèce.

(a) by order, confirm, vary or rescind the Commission's direction; and

(b) make any other order it considers appropriate and reasonable in the circumstances to remedy the non-compliance.

Board may vary or rescind

(2) A Tribunal may vary or rescind any order made by it.

Orders are final

(3) An order of a Tribunal is final and, except for judicial review under the *Federal Courts Act*, is not subject to appeal or review by any court.

1995, c. 44, s. 30; 2002, c. 8, s. 182.

Enforcement of orders

31 (1) Any order of a Tribunal made under section 30 may, for the purposes of its enforcement, be made an order of the Federal Court and is enforceable in the same manner as an order of that Court.

Procedure

(2) To make an order of a Tribunal an order of the Federal Court, the usual practice and procedure of the Court may be followed or a certified copy of the order may be filed with the registrar of the Court, and from the time of filing the order becomes an order of the Court.

Report of activities of Human Rights Commission

32 The Commission shall include in its annual report referred to in section 61 of the *Canadian Human Rights Act* a report of its activities, including an assessment of their effectiveness, under this Act during the year.

Limitations respecting Directions and Orders

Limitation

33 (1) The Commission may not give a direction under section 25 or 26 and no Tribunal may make an order under section 30 where that direction or order would

(a) cause undue hardship on an employer;

(b) require an employer to hire or promote persons who do not meet the essential qualifications for the work to be performed;

(c) with respect to the public sector, require an employer to hire or promote persons without basing the

Réexamen des ordonnances

(2) Le tribunal peut modifier ou annuler ses ordonnances.

Effet des ordonnances

(3) Les ordonnances du tribunal ne sont susceptibles de révision qu'au titre de la *Loi sur les Cours fédérales*.

1995, ch. 44, art. 30; 2002, ch. 8, art. 182.

Exécution des ordonnances

31 (1) Les ordonnances du tribunal peuvent être homologuées par la Cour fédérale; le cas échéant, leur exécution s'effectue selon les mêmes modalités que les ordonnances de cette juridiction.

Procédure

(2) L'homologation se fait soit selon les règles de pratique et de procédure de la Cour fédérale, soit par le dépôt au greffe de celle-ci d'une copie certifiée conforme.

Rapport d'activités

32 La Commission ajoute au rapport annuel qu'elle prépare en conformité avec l'article 61 de la *Loi canadienne sur les droits de la personne* un rapport de ses activités et une évaluation de ses interventions sous le régime de la présente loi au cours de l'année.

Restriction

Restriction

33 (1) Ni la Commission, ni le tribunal, dans l'exercice des pouvoirs qui leur sont respectivement conférés par les articles 25 ou 26 et 30, ne peuvent donner un ordre ou rendre une ordonnance qui :

a) causerait un préjudice injustifié à l'employeur;

b) l'obligerait à embaucher ou promouvoir une personne qui ne possède pas les qualifications essentielles pour le travail à accomplir;

hiring or promotion on merit in cases where the *Public Service Employment Act* requires that hiring or promotion be based on merit, or impose on the Public Service Commission an obligation to exercise its discretion regarding exclusion orders or regulations;

(d) require an employer to create new positions in its workforce;

(e) impose a quota on an employer; or

(f) in the case of a direction or order respecting the establishment of short term numerical goals, fail to take into account the factors set out in subsection 10(2).

Meaning of quota

(2) In paragraph (1)(e), **quota** means a requirement to hire or promote a fixed and arbitrary number of persons during a given period.

Public sector

(3) In making a direction or order that applies to the public sector, the Commission, in the case of a direction, and a Tribunal, in the case of an order, shall take into account the respective roles and responsibilities of

(a) the Public Service Commission and the Treasury Board under the *Public Service Employment Act* and the *Financial Administration Act*; or

(b) a portion of the public sector referred to in paragraph 4(1)(c) or (d) under any other Act of Parliament.

1995, c. 44, s. 33; 2003, c. 22, s. 238.

Privileged Information

Privileged information

34 (1) Information obtained by the Commission under this Act is privileged and shall not knowingly be, or be permitted to be, communicated, disclosed or made available without the written consent of the person from whom it was obtained.

Evidence and production of documents

(2) No member of the Commission or person employed by it who obtains information that is privileged under subsection (1) shall be required, in connection with any legal proceedings, other than proceedings relating to the administration or enforcement of this Act, to give evidence relating to that information or to produce any statement or other writing containing that information.

c) en ce qui concerne le secteur public, l'obligerait à embaucher ou promouvoir des personnes sans égard à leur mérite, dans les cas où la *Loi sur l'emploi dans la fonction publique* exige que la sélection soit faite au mérite, ou obligerait la Commission de la fonction publique à utiliser son pouvoir discrétionnaire en matière de décrets d'exemption ou de règlements;

d) l'obligerait à créer de nouveaux postes;

e) lui imposerait un quota;

f) en matière d'objectifs quantitatifs à court terme, ne tient pas compte des facteurs énumérés au paragraphe 10(2).

Définition de quota

(2) Pour l'application de l'alinéa (1)e), **quota** s'entend de l'obligation d'embaucher ou de promouvoir un nombre fixe et arbitraire de personnes dans un délai donné.

Secteur public

(3) Dans tout ordre ou ordonnance relatifs au secteur public, la Commission et le tribunal tiennent compte des responsabilités et des rôles respectifs d'une part que la *Loi sur la gestion des finances publiques* et la *Loi sur l'emploi dans la fonction publique* confèrent au Conseil du Trésor et à la Commission de la fonction publique, d'autre part que toute autre loi confie à un élément du secteur public visé par les alinéas 4(1)c) ou d).

1995, ch. 44, art. 33; 2003, ch. 22, art. 238.

Renseignements protégés

Protection des renseignements

34 (1) Les renseignements obtenus par la Commission dans le cadre de la présente loi sont protégés. Nul ne peut sciemment les communiquer ou les laisser communiquer sans l'autorisation écrite de la personne dont ils proviennent.

Déposition en justice

(2) Il ne peut être exigé d'un commissaire ou d'un agent de la Commission qui obtient des renseignements protégés dans le cadre de la présente loi qu'il dépose en justice à leur sujet, ni qu'il produise des déclarations, écrits ou autres pièces à cet égard, sauf lors d'une instance relative à l'application de la présente loi.

Communication or disclosure of information

(3) Information that is privileged under subsection (1) may, on any terms and conditions that the Commission considers appropriate, be communicated or disclosed to a minister of the Crown in right of Canada or to any officer or employee of Her Majesty in right of Canada for any purpose relating to the administration or enforcement of this Act.

Exception

(4) Nothing in this section prohibits the communication or disclosure of information for the purposes of legal proceedings relating to the administration or enforcement of this Act.

Employer's consent required

(5) No information obtained by the Commission or a Tribunal under this Act may be used in any proceedings under any other Act without the consent of the employer concerned.

PART III

Assessment of Monetary Penalties

Violations

Violation

35 (1) Every private sector employer commits a violation of this Act who

(a) without reasonable excuse, fails to file an employment equity report as required by section 18;

(b) without reasonable excuse, fails to include in the employment equity report any information that is required, by section 18 and the regulations, to be included; or

(c) provides any information in the employment equity report that the employer knows to be false or misleading.

Continuing violations

(2) A violation that is committed or continued on more than one day constitutes a separate violation for each day on which it is committed or continued.

Communication des renseignements

(3) Les renseignements protégés visés au paragraphe (1) peuvent, selon les modalités déterminées par la Commission, être communiqués à un ministre fédéral ou à un fonctionnaire ou agent de Sa Majesté du chef du Canada pour l'application de la présente loi.

Exception

(4) Le présent article n'empêche nullement la communication de renseignements dans le cadre d'une instance relative à l'application de la présente loi.

Utilisation interdite

(5) Les renseignements obtenus par la Commission ou un tribunal dans le cadre de l'application de la présente loi ne peuvent être utilisés, sans le consentement de l'employeur concerné, dans des procédures intentées en vertu d'une autre loi.

PARTIE III

Sanctions pécuniaires

Violations

Violation

35 (1) Commet une violation de la présente loi l'employeur du secteur privé qui :

a) contrairement à l'article 18, sans excuse légitime, ne dépose pas son rapport sur l'équité en matière d'emploi;

b) sans excuse légitime, ne porte pas au rapport les renseignements exigés en application de cet article ou des règlements;

c) y consigne des données qu'il sait fausses ou trompeuses.

Violation continue

(2) Il est compté une violation distincte pour chacun des jours au cours desquels se commet ou se continue la violation.

Violations not offences

(3) A violation is not an offence and accordingly the *Criminal Code* does not apply in respect of a violation.

Assessment of monetary penalty

36 (1) The Minister may, within two years after the day on which the Minister becomes aware of a violation, issue a notice of assessment of a monetary penalty in respect of the violation and send it by registered mail to the private sector employer.

Limit

- (2)** The amount of a monetary penalty shall not exceed
- (a)** \$10,000 for a single violation; and
 - (b)** \$50,000 for repeated or continued violations.

Factors to be considered

(3) In assessing the amount of a monetary penalty, the Minister shall take into account

- (a)** the nature, circumstances, extent and gravity of the violation; and
- (b)** the wilfulness or intent of the private sector employer and the employer's history of prior violations.

Notice of assessment of monetary penalty

37 A notice of the assessment of a monetary penalty shall

- (a)** identify the alleged violation;
- (b)** specify the amount of the monetary penalty; and
- (c)** specify the place where the employer may pay the monetary penalty.

Options

Employer's options

38 (1) An employer may, not later than thirty days after receiving a notice of assessment of a monetary penalty,

- (a)** comply with the notice; or
- (b)** contest the assessment of the monetary penalty by making a written application to the Minister for a review, by a Tribunal, of that assessment.

Exclusion du *Code criminel*

(3) La violation n'est pas une infraction et le *Code criminel* ne s'applique pas.

Avis de sanction

36 (1) Dans les deux ans suivant la date à laquelle une violation est portée à sa connaissance, le ministre peut expédier, par courrier recommandé, un avis de sanction péquénaire à l'employeur du secteur privé.

Plafond

(2) Le plafond de la sanction est de dix mille dollars, et de cinquante mille dollars en cas de récidive ou de violation continue.

Facteurs

(3) En vue d'établir le montant de la sanction, le ministre tient compte des facteurs suivants :

- a)** la nature, les circonstances, la portée et la gravité de la violation;
- b)** l'intention de l'employeur, le caractère volontaire de ses actions et ses antécédents en matière de violations.

Contenu de l'avis

37 L'avis comporte les éléments suivants :

- a)** la caractérisation de la prétendue violation;
- b)** le montant de la sanction péquénaire;
- c)** la mention du lieu où l'employeur peut payer la sanction.

Options

Options de l'employeur

38 (1) L'employeur dispose de trente jours après réception de l'avis pour soit s'y conformer, soit contester la sanction en demandant au ministre, par écrit, la révision de l'affaire par un tribunal.

Copy of application

(2) If the Minister receives a written application, the Minister shall send a copy of it to the Chairperson.

Copy of notice of assessment

(3) If an employer who is issued a notice of assessment of a monetary penalty fails to exercise one of the options set out in subsection (1) within the period referred to in that subsection, the Minister shall send a copy of the notice to the Chairperson.

1995, c. 44, s. 38; 1998, c. 9, s. 40.

Review by Tribunal

39 (1) On receipt of a copy of a written application or a copy of a notice of assessment, the Chairperson shall establish a Tribunal consisting of one member selected from the Canadian Human Rights Tribunal to review the assessment and shall

(a) send, by registered mail, a request that the employer appear before the Tribunal at the time and place set out in the request to hear the allegations against the employer in respect of the alleged violation; and

(b) in writing, advise the Minister who issued the notice of assessment of the time and place set out in the request.

Failure to appear before Tribunal

(2) Where an employer to whom a request is sent fails to appear before a Tribunal at the time and place set out in the request, the Tribunal shall consider all the information that is presented to it by the Minister in relation to the alleged violation.

Opportunity to make representations

(3) In conducting its review, a Tribunal shall provide the Minister and the employer with a full opportunity consistent with procedural fairness and natural justice to present evidence and make representations to it with respect to the alleged violation.

Determination of Tribunal

(4) Where at the conclusion of its proceedings a Tribunal determines that the employer

(a) has not committed the alleged violation, the Tribunal shall immediately inform the employer and the Minister of its determination and no further proceedings shall be taken against the employer in respect of the alleged violation; or

Double

(2) Sur réception de la demande de révision, le ministre en expédie un double au président.

Défaut

(3) Si l'employeur n'exerce pas son choix dans le délai fixé, le ministre expédie un double de l'avis au président.

1995, ch. 44, art. 38; 1998, ch. 9, art. 40.

Assignation

39 (1) Sur réception du double de la demande ou de l'avis, le président constitue un tribunal composé d'un seul membre choisi parmi les membres du Tribunal canadien des droits de la personne pour réviser la sanction et :

a) assigne, par courrier recommandé, l'employeur à comparaître devant le tribunal à la date et au lieu indiqués pour y entendre les faits qui lui sont reprochés;

b) informe par écrit le ministre de la date et du lieu mentionnés dans l'assignation.

Défaut de comparution

(2) En cas de défaut de comparution, le tribunal examine tous les renseignements qui lui sont fournis par le ministre sur la présumée violation.

Comparution

(3) Lors de la comparution, le tribunal donne à l'employeur et au ministre toute possibilité de lui présenter leurs éléments de preuve et leurs observations sur la présumée violation, conformément aux principes de l'équité procédurale et de la justice naturelle.

Décision du tribunal

(4) À l'issue de l'instance, le tribunal :

a) lorsqu'il conclut à l'absence de violation, en informe immédiatement l'employeur et le ministre, nulle autre poursuite ne pouvant être intentée à cet égard;

b) dans le cas contraire, expédie immédiatement au ministre un certificat, établi en la forme réglementaire, comportant sa décision et le montant de la

(b) has committed the alleged violation, the Tribunal shall immediately

(i) issue to the Minister a certificate, in the prescribed form, of its determination that sets out an amount, not exceeding the applicable amount set out in subsection 36(2), determined by the Tribunal to be payable by the employer in respect of the violation, and

(ii) send a copy of the certificate to the employer by registered mail.

Factors to be considered

(5) In determining an amount under subparagraph (4)(b)(i), a Tribunal shall take into account the factors set out in subsection 36(3).

Burden of proof

(6) In proceedings under this section, the Minister has the burden of proving, on a balance of probabilities, that an employer has committed the alleged violation.

Certificate

(7) A certificate that purports to have been issued by a Tribunal under subparagraph (4)(b)(i) is evidence of the facts stated in the certificate, without proof of the signature or official character of the person appearing to have signed the certificate.

Determinations are final

(8) A determination of a Tribunal under this section is final and, except for judicial review under the *Federal Courts Act*, is not subject to appeal or review by any court.

1995, c. 44, s. 39; 1998, c. 9, s. 41; 2002, c. 8, s. 182.

Enforcement of Monetary Penalties

Registration of certificate

40 (1) A certificate issued under subparagraph 39(4)(b)(i) may be registered in the Federal Court and when registered has the same force and effect, and all proceedings may be taken on the certificate, as if the certificate were a judgment in that Court obtained by Her Majesty in right of Canada against the employer named in the certificate for a debt in the amount set out in the certificate.

Recovery of costs and charges

(2) All reasonable costs and charges associated with registration of the certificate are recoverable in like manner

sanction — à concurrence du plafond prévu au paragraphe 36(2) — , qu'il fait également parvenir, par courrier recommandé, à l'employeur.

Facteurs

(5) Le tribunal tient compte des facteurs mentionnés au paragraphe 36(3) pour fixer le montant de la sanction.

Charge de la preuve

(6) Lors de l'instance, il incombe au ministre de prouver, selon la prépondérance des probabilités, que l'employeur a commis la violation.

Valeur du certificat

(7) Le certificat censé délivré par le tribunal fait foi de son contenu sans qu'il soit nécessaire de prouver l'authenticité de la signature ou la qualité du signataire.

Effet de décision

(8) Les décisions du tribunal ne sont susceptibles de révision qu'au titre de la *Loi sur les Cours fédérales*.

1995, ch. 44, art. 39; 1998, ch. 9, art. 41; 2002, ch. 8, art. 182.

Exécution des sanctions péquéniaires

Homologation du certificat

40 (1) Le certificat délivré en vertu de l'alinéa 39(4)b peut être homologué à la Cour fédérale; dès lors, toute procédure d'exécution peut être engagée, le certificat étant assimilé à un jugement de cette juridiction obtenu par Sa Majesté du chef du Canada contre l'employeur en cause pour une dette correspondant au montant de la sanction péquéniaire indiqué.

Recouvrement des frais

(2) Tous les frais entraînés par l'homologation du certificat peuvent être recouvrés comme s'ils faisaient partie du

as if they were part of the amount determined by the Tribunal under subparagraph 39(4)(b)(i).

montant indiqué sur le certificat homologué en application du paragraphe (1).

PART IV

General

Regulations

41 (1) The Governor in Council may make regulations

- (a)** defining, for the purposes of the Act, the expressions “employee”, “hired”, “occupational group”, “promoted”, “salary” and “terminated”;
- (b)** prescribing the manner of calculating the number of employees employed by an employer for the purpose of determining when an employer is considered to employ one hundred or more employees;
- (c)** governing the collection of information and the conduct of analyses referred to in paragraph 9(1)(a) and the conduct of reviews referred to in paragraph 9(1)(b);
- (d)** governing the establishment and maintenance of employment equity records referred to in section 17;
- (e)** prescribing anything that is to be prescribed by this Act; and
- (f)** generally, for carrying out the purposes and provisions of this Act.

Application

(2) A regulation made pursuant to subsection (1) may be of general application or may apply to a particular employer or group of employers.

Where regulations apply to public sector

(3) No regulation may be made under subsection (1) that applies to the public sector without prior consultation with the Treasury Board.

Inconsistent meanings

(4) No expression defined pursuant to paragraph (1)(a) that applies to the public sector shall be given a meaning that is inconsistent with the meaning that that expression or any similar expression is given under the *Public Service Employment Act*.

Adaptation of Act to certain portions

(5) The Governor in Council may, taking into account the operational effectiveness of the appropriate portion of the public sector referred to in paragraph (a) or (b),

PARTIE IV

Dispositions générales

Règlements

41 (1) Le gouverneur en conseil peut, par règlement :

- a)** pour l’application de la présente loi, définir « rémunération », « recrutement », « avancement », « salarié », « catégorie professionnelle » et « cessation de fonctions »;
- b)** fixer le mode de calcul du nombre de salariés qui travaillent pour un employeur en vue de déterminer s’il emploie au moins cent salariés;
- c)** régir la cueillette des renseignements, ainsi que le processus des études et analyses, visés au paragraphe 9(1);
- d)** régir la tenue des dossiers d’équité en matière d’emploi visés à l’article 17;
- e)** prendre toute mesure d’ordre réglementaire prévue par la présente loi;
- f)** prendre toute autre mesure d’application de la présente loi.

Application des règlements

(2) Les règlements d’application du présent article peuvent être d’application générale ou ne s’appliquer qu’à un employeur ou un groupe d’employeurs.

Secteur public

(3) Lorsqu’il s’applique au secteur public, le règlement ne peut être pris qu’après consultation du Conseil du Trésor.

Incompatibilité

(4) Les termes définis en vertu de l’alinéa (1)a) ne peuvent, dans la mesure où ils s’appliquent au secteur public, avoir un sens incompatible avec celui qu’eux-mêmes ou un terme semblable ont sous le régime de la *Loi sur l’emploi dans la fonction publique*.

Cas particuliers

(5) Le gouverneur en conseil peut prendre les règlements qu’il juge nécessaires en vue d’adapter les exigences de la présente loi ou des règlements à leur application aux

make any regulation that the Governor in Council considers necessary to adapt this Act or the regulations or any provision of this Act or the regulations to accommodate

- (a) the Canadian Security Intelligence Service; or
- (b) where an order is made under paragraph 4(1)(d) in relation to the Canadian Forces or the Royal Canadian Mounted Police, the Canadian Forces or the Royal Canadian Mounted Police.

Requirements

(6) A regulation made under subsection (5) shall be made on the recommendation of the Treasury Board after consultation with

- (a) in the case of a regulation respecting the Canadian Security Intelligence Service, or the Royal Canadian Mounted Police, the Minister of Public Safety and Emergency Preparedness; and
- (b) in the case of a regulation respecting the Canadian Forces, the Minister of National Defence.

Requirements may differ

(7) The effect of a regulation made under subsection (5) with respect to any matter may differ from the effect of the Act or the regulations or of any provision of the Act or the regulations with respect to that matter.

1995, c. 44, s. 41; 2005, c. 10, s. 34.

Powers, duties and functions of Minister

42 (1) The Minister is responsible for

- (a) developing and conducting information programs to foster public understanding of this Act and to foster public recognition of the purpose of this Act;
- (b) undertaking research related to the purpose of this Act;
- (c) promoting, by any means that the Minister considers appropriate, the purpose of this Act;
- (d) publishing and disseminating information, issuing guidelines and providing advice to private sector employers and employee representatives regarding the implementation of employment equity; and
- (e) developing and conducting programs to recognize private sector employers for outstanding achievement in implementing employment equity.

éléments du secteur public suivants, en tenant compte de la nécessité de leur efficacité opérationnelle :

- a) le Service canadien du renseignement de sécurité;
- b) les Forces canadiennes ou la Gendarmerie royale du Canada si un décret est pris en vertu de l'alinéa 4(1)d) à leur égard.

Exigences

(6) Les règlements visés au paragraphe (5) sont pris sur la recommandation du Conseil du Trésor, celle-ci ne pouvant être faite qu'après consultation :

- a) du ministre de la Sécurité publique et de la Protection civile, dans le cas de la Gendarmerie royale du Canada ou du Service canadien du renseignement de sécurité;
- b) du ministre de la Défense nationale, dans le cas des Forces canadiennes.

Application

(7) Les conséquences juridiques des règlements pris en vertu du paragraphe (5) à l'égard de toute question en particulier peuvent être différentes de celles de la présente loi ou des règlements concernant cette question.

1995, ch. 44, art. 41; 2005, ch. 10, art. 34.

Attributions du ministre

42 (1) Le ministre est chargé :

- a) de mettre sur pied des programmes d'information auprès du grand public destinés à lui faire mieux comprendre la présente loi et son objet;
- b) d'entreprendre des recherches liées à l'objet de la présente loi;
- c) de prendre les mesures qu'il estime indiquées pour la promotion de l'objet de la présente loi;
- d) d'informer et de conseiller les employeurs du secteur privé et les représentants des salariés sur la mise en œuvre de l'équité en matière d'emploi et d'établir, à leur égard, des directives susceptibles, selon lui, de les aider à se conformer à ses dispositions;
- e) de mettre sur pied des programmes destinés à distinguer les employeurs du secteur privé qui se sont particulièrement signalés dans le domaine de l'équité en matière d'emploi.

Federal Contractors Program

(2) The Minister is responsible for the administration of the Federal Contractors Program for Employment Equity.

Labour market information

(3) The Minister shall make available to employers any relevant labour market information that the Minister has respecting designated groups in the Canadian workforce in order to assist employers in fulfilling their obligations under this Act.

1995, c. 44, s. 42; 2012, c. 19, s. 602.

Delegation

43 The Minister may authorize those persons employed in the federal public administration whom the Minister considers to be appropriate to exercise any of the powers and perform any of the duties and functions that may be or are required to be exercised or performed by the Minister under this Act or the regulations, and any power exercised or duty or function performed by any person so authorized shall be deemed to have been exercised or performed by the Minister.

1995, c. 44, s. 43; 2003, c. 22, s. 224(E).

Review of operation of Act

44 (1) Five years after the coming into force of this Act, and at the end of every five year period thereafter, a comprehensive review of the provisions and operation of this Act including the effect of those provisions shall be undertaken by such committee of the House of Commons as may be designated or established by the House for that purpose.

Tabling of report

(2) A committee shall, within six months after the completion of a review referred to in subsection (1), submit a report on its review to the House of Commons including a statement of any changes the committee would recommend.

Transitional Provision

Compliance with certain provisions

45 The Treasury Board, the Public Service Commission and any person who is an employer to whom the *Employment Equity Act*, R.S., c. 23 (2nd Suppl.), applied shall, within one year after the coming into force of this section, comply with sections 9 and 10 of this Act.

Responsabilité particulière

(2) Le ministre est également chargé de l'administration du programme de contrats fédéraux pour l'équité en matière d'emploi.

Information sur le marché du travail

(3) Le ministre met à la disposition des employeurs les données qu'il possède relativement au marché du travail sur les groupes désignés au sein de la population apte au travail afin de les aider à se conformer à la présente loi.

1995, ch. 44, art. 42; 2012, ch. 19, art. 602.

Délégation

43 Le ministre peut déléguer à tout agent de l'administration publique fédérale qu'il estime compétent l'exercice des attributions que la présente loi ou ses règlements lui confèrent, l'exercice de ces attributions par le déléguaire étant assimilé à leur exercice par le ministre même.

1995, ch. 44, art. 43; 2003, ch. 22, art. 224(A).

Examen de l'application de la loi

44 (1) Cinq ans après l'entrée en vigueur de la présente loi, et à la fin de chaque période ultérieure de cinq ans, un comité de la Chambre des communes désigné ou établi par elle à cette fin procède à un examen complet des dispositions et de l'application de la présente loi ainsi que de leur effet.

Rapport : examen

(2) Dans les six mois suivant la fin de l'examen, le comité désigné ou établi à cette fin présente à la Chambre des communes un rapport exposant tous les changements qu'il recommande.

Disposition transitoire

Disposition transitoire

45 Quiconque est un employeur assujetti à la *Loi sur l'équité en matière d'emploi*, L.R., ch. 23 (2^e suppl.), ainsi que le Conseil du Trésor et la Commission de la fonction publique disposent, pour se conformer aux articles 9 et 10 de la présente loi, d'un an à compter de l'entrée en vigueur du présent article.

Consequential Amendments

46 to 53 [Amendments]

Repeal

54 [Repeal]

Coming into Force

Coming into force

'55 This Act or any provision of this Act comes into force on a day or days to be fixed by order of the Governor in Council.

* [Note: Act in force October 24, 1996, see SI/96-93.]

Modifications corrélatives

46 à 53 [Modifications]

Abrogation

54 [Abrogation]

Entrée en vigueur

Entrée en vigueur

'55 La présente loi ou telle de ses dispositions entre en vigueur à la date ou aux dates fixées par décret.

* [Note : Loi en vigueur le 24 octobre 1996, voir TR/96-93.]

RELATED PROVISIONS

— 1998, c. 9, s. 33

Definition of *commencement day*

33 (1) In this section, ***commencement day*** means the day on which this section comes into force.

Members cease to hold office

(2) Subject to subsections (3), (4) and (5), the members of the Human Rights Tribunal Panel cease to hold office on the commencement day.

Continuing jurisdiction of Human Rights Tribunal

(3) The members of any Human Rights Tribunal appointed under the *Canadian Human Rights Act* before the commencement day have jurisdiction with respect to any inquiry into the complaint in respect of which the Human Rights Tribunal was appointed.

Continuing jurisdiction of Review Tribunal

(4) The members of any Review Tribunal constituted under the *Canadian Human Rights Act* before the commencement day have jurisdiction with respect to any appeal against a decision or order of a Human Rights Tribunal.

Continuing jurisdiction of Employment Equity Review Tribunal

(5) The members of any Employment Equity Review Tribunal established under section 28 or 39 of the *Employment Equity Act* before the commencement day have jurisdiction over any matter in respect of which the Tribunal was established.

Supervision by Chairperson of Canadian Human Rights Tribunal

(6) The Chairperson of the Canadian Human Rights Tribunal has supervision over and direction of the work of any Human Rights Tribunal, Review Tribunal or Employment Equity Review Tribunal referred to in subsection (3), (4) or (5).

Remuneration

(7) Each member of a Human Rights Tribunal, Review Tribunal or Employment Equity Review Tribunal referred to in subsection (3), (4) or (5), other than such a member who is appointed as a full-time member of the Canadian Human Rights Tribunal, shall be paid such remuneration as may be fixed by the Governor in Council.

DISPOSITIONS CONNEXES

— 1998, ch. 9, art. 33

Définition de *entrée en vigueur*

33 (1) Pour l'application du présent article, ***entrée en vigueur*** s'entend de l'entrée en vigueur de celui-ci.

Cessation des fonctions des membres

(2) Sous réserve des paragraphes (3), (4) et (5), le mandat des membres du Comité du tribunal des droits de la personne prend fin à la date d'entrée en vigueur.

Maintien des pouvoirs

(3) Les membres du tribunal des droits de la personne constitué en vertu de la *Loi canadienne sur les droits de la personne* avant la date d'entrée en vigueur conservent leurs pouvoirs à l'égard de la plainte qu'ils ont été chargés d'examiner.

Tribunal d'appel

(4) Les membres du tribunal d'appel constitué en vertu de la *Loi canadienne sur les droits de la personne* avant la date d'entrée en vigueur conservent leurs pouvoirs à l'égard de l'appel dont ils sont saisis.

Maintien des pouvoirs

(5) Les membres du tribunal constitué en vertu de l'article 28 ou 39 de la *Loi sur l'équité en matière d'emploi* avant la date d'entrée en vigueur conservent leurs pouvoirs à l'égard de l'affaire dont ils ont été saisis en vertu de cette loi.

Autorité du président

(6) Dans l'exercice des pouvoirs prévus aux paragraphes (3), (4) et (5), les membres agissent sous l'autorité du président du Tribunal canadien des droits de la personne.

Rémunération

(7) Les membres reçoivent, pour l'exercice des pouvoirs prévus aux paragraphes (3), (4) et (5), la rémunération fixée par le gouverneur en conseil, sauf s'ils sont nommés membres à temps plein du tribunal.

Travel expenses

(8) Each member of a Human Rights Tribunal, Review Tribunal or Employment Equity Review Tribunal referred to in subsection (3), (4) or (5) is entitled to be paid travel and living expenses incurred in carrying out duties as a member of that Tribunal while absent from their place of residence, but the expenses must not exceed the maximum limits authorized by Treasury Board directive for employees of the Government of Canada.

Frais de déplacement

(8) Les membres ont droit aux frais de déplacement et de subsistance entraînés par l'accomplissement, hors du lieu de leur résidence habituelle, des fonctions qui leur sont confiées en application de la présente loi, sous réserve des montants maximaux que les instructions du Conseil du Trésor fixent en semblable matière pour les fonctionnaires du gouvernement du Canada.

POLICY ANALYSIS OF EQUITY, DIVERSITY AND INCLUSION STRATEGIES IN CANADIAN UNIVERSITIES – HOW FAR HAVE WE COME?

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Abstract

Institutional efforts to address equity, diversity and inclusion in educational settings have been often met with overwhelmingly critical accounts pointing towards well-intentioned attempts that have reinforced exclusion and inequity. A new wave of recent developments among Canadian research-intensive universities (U15) is providing a slightly different account of universities' involvement in addressing the needs of equity-seeking students. This paper presents data collected through policy analysis of 50 strategic documents from 15 Canadian universities from 2011-2018. The findings suggest that equity, diversity and inclusion activities have become a policy priority attached to a variety of institutional action plans and performance reports. As a result, there has been an increase in institutional strategic activities including institutional political commitment (e.g. new equity offices, new senior administration positions, mandatory training), student and faculty recruitment with programmatic and research supports (e.g. diversity admission policies, scholarships, access programs, curriculum changes), accompanied by broader efforts to create supportive institutional climates (e.g. student advisors, awards, celebrations). Inconsistencies emerged amongst how equity is defined in policy documents, resulting in either redistributive or inclusive practices in equity, diversity, and inclusion initiatives.

Keywords: equity, diversity, inclusion, U15, higher education, policy analysis

Résumé

Les efforts institutionnels visant à prendre en compte l'équité, la diversité et l'inclusion dans les milieux éducatifs ont souvent suscité des réactions extrêmement critiques suggérant que ces tentatives bien intentionnées n'auraient fait que renforcer l'exclusion et les inégalités. Une nouvelle vague de développements au sein du regroupement des universités de recherche du Canada (U15) montre une situation légèrement différente concernant les actions de ces universités pour répondre aux besoins des étudiants à la recherche d'équité. Cet article présente les données recueillies par l'analyse des politiques dans 50 documents stratégiques de 15 universités canadiennes entre 2011 et 2018. Les résultats suggèrent que les activités en matière d'équité, de diversité et d'inclusion sont devenues une priorité associée à divers plans d'action institutionnels et rapports de performance. Par conséquent, les activités stratégiques institutionnelles ont augmenté, y compris l'engagement politique institutionnel (par exemple, nouveaux bureaux d'équité, nouveaux postes de direction, formation obligatoire) et le recrutement d'étudiants et de professeurs avec le soutien de programmes et de recherches (par exemple, politiques d'admission encourageant la diversité, bourses d'études, programmes d'accès, changements curriculaires), accompagnés d'efforts plus larges visant à créer un climat institutionnel favorable (par exemple, conseillers aux étudiants, récompenses, célébrations). Des incohérences sont apparues dans la définition de l'équité entre les documents de politiques, où les pratiques en matière d'équité, de diversité et d'inclusion sont soit redistributives, soit inclusives.

Mots-clés : équité, diversité, inclusion, U15, enseignement supérieur, analyse des politiques

Introduction

Widespread scholarly attention has been paid to education systems contributing to exclusion and marginalization of students on the basis of ethnicity, ability/disability,

gender, sexuality, and religion (Michalski, Cunningham, & Henry, 2017; Riley, Mentis, & Kearney, 2016). While Canada enjoys a global image of being politically multicultural and embracing diversity, the persistence of sys-

temic barriers and implicit biases faced by members of equity-seeking groups in higher education (e.g. women, racialized minorities, Indigenous peoples, and persons with disabilities) remains a critical issue (Clark et al., 2014; Henry et al., 2016). Some scholars have suggested that modern neoliberal universities' efforts towards equity, diversity, and inclusion agendas often amount to no more than institutional rhetoric, "cosmetic diversity", well-worded mission statements, and superficial changes (Harper & Hurtado, 2007; Henry et al., 2016; Hoffman & Mitchell, 2016).

Addressing those long-standing systemic barriers associated with higher learning is essential for several reasons. First, meaningful educational experiences are an individual right that helps to secure students' academic, social, and personal success in life (Preston, 2008). As noted by the OECD (2013), well-educated people have better health and higher incomes, engage more in civic activities, and are generally happier. Second, the changing global environments require universities to meet the needs of their increasingly diversified student population. In the Canadian post-secondary context, changing demographics (Gertler, 2016), increased recruitment and retention of international students and faculty (Government of Canada, 2014), multiculturalism as a state ideology (al Shaibah, 2014; St. Denis, 2011), and the growing momentum around the rights of Indigenous peoples (Henry et al., 2016; Pidgeon, 2016; Truth and Reconciliation Commission, 2015) are some leading factors behind the strengthened institutional focus on diversity and equity.

Recently, there has been significant political impetus at both the global and national levels assigned to the inclusivity agenda. For example, the UNESCO 2030 Framework for Education underlines goals for "*inclusive and equitable quality education*" (UNESCO, 2015, p.3). In Canada, Universities Canada, an organization representing Canadian post-secondary institutions, has developed seven Inclusive Excellence Principles, followed by an Action Plan to advance equity, diversity, and inclusion on campus and in society (Universities Canada, 2017). The latter primarily encourages institutional transparency in terms of providing public access of diversity-related data. Even stronger pressure (with financial consequences) to hold post-secondary institutions accountable for their equity, diversity and inclusion efforts has come from the Canadian federal government. The Minister of Science and Sport launched the Equity, Diversity, and

Inclusion Action Plan in May 2017 (Government of Canada, 2017). In order to receive research funding through the Canada Research Chairs (CRC)¹ program, all institutions with five or more CRC positions are now required to develop and publish institutional equity, diversity and inclusion (EDI) action plans (Government of Canada, 2018). This high-level political attention, aligned with research funding, has triggered Canadian research-intensive universities to articulate their goals and demonstrate achievements through institutional EDI action plans.

Despite interest in and commitment to equity, diversity and inclusion, there continues to be considerable variations in whether and how institutions of higher learning define, understand, and respond to equity-related issues (al Shaibah, 2014). As many studies have shown, the task of supporting authentic equity and inclusion among students and faculty is multilayered and complex. For some institutions, this means increasing recruitment across diverse student, staff, and faculty groups. For others, it means focusing their efforts on providing institutional supports through targeted programs, support services, and funding (see Pidgeon, Archibald, & Hawkey, 2014). Some scholars have argued that Canadian institutions of higher learning need to move beyond passively articulating value for diversity in a rote manner to demonstrating active commitments to inclusivity and equity (al Shaibah, 2014; Pidgeon, 2016).

This paper seeks to identify and analyze the emerging organizational strategies and approaches in Canadian research-intensive universities (U15) to foster equity, diversity and inclusion on campus, and consider their broader implications. The following research questions guide the analysis: How are equity, diversity and inclusion defined in institutional policy documents? What are the institutional strategies for achieving diversity, equity, and inclusion on campus, as articulated in institutional strategic documents?

Literature Review

Equity, diversity and inclusion are complex and often contested terms, in both meaning and enactment. A definition of diversity typically includes race, gender, age, sexual orientation, socio-economic class, and disability, with additional considerations of religion, education, and family/marital status. However, as Chan (2005) notes, diversity is more than a set of categories. It extends to the principles of inclusion, the recognition and valuing of

difference, and the ability to participate equitably in society. Equity is most often associated with the concept of fairness. Many scholars see equity as a mechanism for recognizing systemic power and privilege in higher education (Brennan & Naidoo, 2008). Savage et al. (2013) pointed out that different understandings of equity lead to different education policy foci: for example, an understanding of equity as fairness would suggest policies that focus on redistribution while one of equity as inclusion and recognition would suggest policies that seek to ameliorate the negative influences of social and cultural difference (p. 162). UNESCO's (2015) approach to inclusion focuses on education systems that remove the barriers limiting the participation and achievement of all learners, that respect diverse needs, abilities, and characteristics, and that eliminate all forms of discrimination in the learning environment.

Policies for diversity and inclusion in Canada have not originated as educational policies but are grounded in the Canadian legal framework and constitutional values. This constitutes a rights-based approach to inclusion. The federal legislation that guides institutional approaches to equity, diversity, and inclusion includes the Canadian Multiculturalism Act (1988), the Charter of Rights and Freedoms (1982), the Employment Equity Act (1986, revised in 1996), and the Canadian Human Rights Act (1977) (Chan, 2005). Each establishes principles and values to be included in Canadian society. In addition, there is provincial legislation that guides and supports institutional practice.

A core focus in Canadian higher education literature has been on the issues around hiring and employment equity (Henry et al., 2016; Kipang & Zuberi, 2018; Osborne, 2012). Scholars have pointed to inequities in the representation of racialized faculty and their limited impact in terms of power, prestige, and influence within the university. Unconscious biases have had a significant impact on the career trajectories of racialized and Indigenous scholars and women in the contemporary academy (Henry et al., 2016). However, there is no shortage of scholarship suggesting that equity concerns are equally relevant for student groups. Indigenous students in Canada are consistently faced with barriers, including racism, interpersonal discrimination and misrepresentation or total elimination of Indigenous culture(s) in the curriculum, leading to frustration with the university system and feelings of cultural isolation on campus (Bailey, 2016; Gaudry & Lorenz, 2018; Pidgeon, 2014; Preston, 2008).

Students with disabilities similarly struggle to integrate into postsecondary environments due to the academic and social barriers related to their impairments (Jalovcic, 2017; Ostrowski, 2016). Recent studies have indicated that international students similarly face challenges integrating into Canadian university life and culture (Guo & Chase, 2011). International students in Canada are often perceived to be "ideal immigrants" (Scott et al., 2015), "cash," "competition," and "charity" (Stein & de Andreotti, 2016) in policy documents and in practice. Several authors have pointed to the general discourse shift in Canadian policies whereby international students have moved from being the receivers of development aid to being Canada's solution to filling a void of highly skilled workers (Stein, 2017; Trilokekar, 2010).

Many scholars have emphasized the crucial role of senior administrative leadership and deliberate and sustained conscious administrative planning in securing equity and diversity in a post-secondary education context (Chun & Evans, 2018; Pidgeon, Archibald, & Hawkey, 2014). Chan (2005) noted that a system-wide engagement with the debates on diversity and policy is a necessary step in the process of institutional reform and change. Examination of how power is manifested in practice is an important feature of changing institutions. Otherwise, subjective decision-making may continue with privileged groups making decisions for others. An acknowledgement and examination of the complexities and the micropolitics in the institution are essential (Chan, 2005). Pidgeon (2016) has stated that leadership in the Indigenization movement should come from a variety of individuals and groups within and outside the institution and needs to be culturally responsive. She has pointed to the need for involving Indigenous peoples more actively in governance of the university. Diversity action plans, institution-wide Indigenous strategic plans, and other policy documents have been seen as key mechanisms to advance and influence equity, diversity, and inclusion formally (Hurtado, Alvarez, Guillermo-Wann, Cuellar, & Arellano, 2012; Iverson, 2007). Used as accountability mechanisms, those plans state institutional achievements and progress. This birds-eye view overview of recent studies provides convincing evidence of the struggles that Canadian post-secondary education face in the context of a equity, diversity, and inclusion agenda.

Theoretical Framework

This study is informed by the lens of critical policy studies in education (Ball 1990, 1993; Henry et al., 2013; Ozga 2000), whereby the concept of policy itself is problematized by highlighting that policies are not only texts and documents but, most importantly, processes that are informed by values, discussion, activities, social relationships and power. Ozga (2000) points out that policies are “struggled over, not delivered” (p. 2). A critical approach to policy analysis thus emphasizes the importance of examining policies within their historical, social, economic, cultural, and political contexts (Diem & Young, 2015), recognizing that these contexts produce particular local versions of policy (Ozga, 2005; Taylor, 1997). Ball (1990) notes that “policies embody claims to speak with authority, they legitimate and initiate practices in the world, and they privilege certain visions and interests” (p. 22). It is possible to conceptualise policy as a process of continuous cycle of policy making and re-making in specific sites (e.g. universities) through power struggle (among stakeholder groups involved) (Ball, 1993; Bowe, Ball & Gold, 1992).

A critical policy approach pays attention not only to the content of the policy, but also to the processes of policy development and implementation to evaluate how policy making processes are arranged, what particular set of educational values have been endorsed, to investigate whose interests the policy serves and to examine how a policy has been implemented, and with what outcomes (Henry et al., 2013). In that regard, Hurtado et al.’s (1998) work is especially useful as they propose a four-aspect analytical framework to assess campus climate, often referred as intangible, focusing on: 1) a campus’ historical legacy of inclusions or exclusion of various racial or ethnic groups; 2) its structural diversity (i.e., the numerical and proportional representation of diverse groups on campus); 3) its psychological climate (i.e., perceptions, attitudes, and beliefs about diversity); and 4) its behavioral climate (i.e., how different racial and ethnic groups interact on campus). In this paper, while engaging in policy analysis, we recognize that policies are more than texts, closely associated with authority and power, leading to local interpretations of equity, diversity and inclusion. Therefore, it is important to consider the values and definitions and institutional strategic responses to understand the nuances and differences in the framings of the issues aligned with the activities emerging from those framings.

Methodology

This qualitative study reported on the data gathered through content analysis of policy documents from 15 Canadian research-intensive universities. A total of 92 documents were initially collected, from which 50 documents were selected for the final analysis (see Table 1). The selection criteria involved: 1) most recent institutional strategic plans; 2) action plans and performance measures directly developed to enhance equity, diversity, and inclusion on campus (including internationalization strategies); 3) public accessibility (posted on websites). Short institutional diversity and equity statements were not included, as more detailed documents were available. Diversity and equity offices (if available) or other senior administration representatives from each university were contacted for document verification purposes.

Textual analysis through inductive categorization (Burnard, 1991) was performed, gradually developing higher order groups and unique themes within the broader groups (Creswell, 1998; Elo & Kyngäs, 2008). The first step of the analysis involved free/open coding, where categorical themes were identified through reading and making notes to the texts. For example, any mention made in regard to the word of equity and/or diversity and/or inclusion, the frequency and the specific contextual association of the terms was highlighted. Based on the results, the lists of categories emerged, which were then grouped under higher order headings (e.g. presence and values associated with the definitions, activities related to hiring, research, training, curriculum, learning, student support, recruitment, campus culture). Next, the data was examined, compared and interpreted, and then classified as ‘belonging’ to a particular broader group or not. Through abstraction, a general description of the broader research categories was achieved by creating six main categories with distinctive themes within each. Each researcher conducted their own categorization independently. Content validation was achieved through several meetings among the researchers to agree upon the way in which the data was categorized and distinct themes identified.

In the analysis, we looked at how equity, diversity and inclusion had been addressed and framed, and what institutional initiatives had been proposed and adopted (performance reports). In each document, we analyzed the content and paragraphs that specifically addressed the institutional approach, goals, and activities related

to EDI. Furthermore, we also paid attention to the missing discourses, e.g. whose voices (which social groups) were not reflected in those documents.

Findings

The findings are presented following the main six categories that emerged from the data analysis – 1) definitions;

Table 1. List of the policy documents analyzed

University	Documents
University of Alberta (AB)	1. Institutional Strategic Plan “ <i>For the Public Good</i> ” (2016-2021) 2. “ <i>For the Public Good</i> ”. Annual Performance Measures (November 2018) 3. Political Policy Internationalization (2013-2020) 4. CRC Equity, Diversity & Inclusion Action Plan (2018)
University of Calgary (AB)	1. Strategic Plan “ <i>Eyes High</i> ” (2017-2022) 2. Office of Diversity, Equity and Protected Disclosure Annual Report (2016-2017) 3. University of Calgary International Strategy (2013) 4. CRC Equity Diversity and Inclusion Action Plan (2018)
Dalhousie University (NS)	1. Strategic Priority Charter #DalForward (2014-2018) 2. Diversity and Inclusiveness Strategy Progress Report (2018) 3. Institutional Equity, Diversity, Inclusion Action Plan CRC (2017)
Laval University (QC)	1. <i>Strategic Plan “Dare, Inspire, Achieve, Building the Future Together”</i> (2017-2022) 2. Plan d'action en matière d'équité, de diversité et d'inclusion, CRC (2018) (in French)
University of Manitoba (MB)	1. Strategic Plan “ <i>Taking Our Place</i> ” (2015-2020) 2. International Strategy “ <i>Manitoba's Gateway to the World</i> ” (2014) 3. Diversity and Inclusion Strategy (2014) 4. Equity, Diversity, and Inclusion Action Plan for the CRC program (2018)
McGill University (QC)	1. Strategic Academic Plan (2017-2022) 2. Canada Research Chairs EDI Action Plan (2018)
McMaster University (ON)	1. Strategic Plan (2016-2021) 2. Internationalization Strategy “ <i>The McMaster Model for Global Engagement</i> ” (2016) 3. Equity and Inclusion Office Annual Report “ <i>Brighter World</i> ” (2016-2017) 4. Canada Research Chairs: Equity, Diversity & Inclusion (2018)
Montreal University (QC)	1. Strategic Plan “ <i>Planification Stratégique</i> ” (2016-2021) 2. Plan d'action en matière d'équité, de diversité et d'inclusion pour le programme des chaires de recherche du Canada (2018)
University of Ottawa (ON)	1. Strategic Plan “ <i>Destination 2020. Discover the future</i> ” (...-2020) 2. Internationalization Strategy (2017) 3. Report to the President: Diversity and Inclusion – Challenge and Promise (2018) 4. Canada Research Chairs Institutional Equity, Diversity, Inclusion Action Plan (2017-2019)
Queen's University (ON)	1. Strategic Framework (2014-2019) 2. Strategic Framework Year Three Implementation Report (2018) 3. Equity, Diversity and Inclusion: Action Plan for Recruiting, Hiring and Retaining Canada Research Chairs at Queen's University (2018) 4. Principal's Implementation Committee on Racism, Diversity, and Inclusion Implementation Report (2018)
University of Saskatchewan (SK)	1. University Plan 2025. Strategic Framework and Narrative (2018-2025) 2. CRC Program: Equity, Diversity and Inclusion (2017)

University	Documents
University of Toronto (ON)	1. Strategic Research Plan “Excellence, Innovation, Leadership” (2018-2023) 2. Three Priorities: A Discussion Paper (2015) 3. Canada Research Chairs Equity, Diversity and Inclusion Action Plan (2018)
University of British Columbia (UBC) (BC)	1. Strategic Plan “Shaping UBC’s next century” 2018-2028 2. Strategy for Advancing Equity and Diversity “Valuing Difference” (2010) 3. International Strategic Plan (2011) 4. CRC Equity, Diversity and Inclusion Action Plan (2018)
University of Waterloo (ON)	1. Strategic Plan “A Distinguished Past – A Distinctive Future” (2013) 2. Strategic Plan for equity “New Directions” (2013) 3. International Strategic Plan “Part of Your World” (2013) 4. CRC Equity, Diversity, and Inclusion Action Plan (2017)
Western University (ON)	1. Strategic Plan “Achieve Excellence on the World Stage” (2014) 2. Diversity and Inclusion Plan (2011-2015) 3. International Action Plan (2014-2019) 4. Canada Research Chairs Program - Equity, Diversity & Inclusion Action Plan (web only)

2) political commitment; 3) student recruitment; 4) programmatic supports; 5) research and scholarship; and 6) institutional climate. Within each category distinctive themes are examined and explained.

Defining Equity, Diversity, and Inclusion

This section highlights the key findings regarding the use of terminology and language as well as value statements made to frame the topic of equity, diversity and/or inclusion. Institutional Strategic Plans across all 15 universities were characterized by the use of broad and vague language in regard to equity, diversity and inclusion. Phrases such as “we value diversity, inclusivity and equity” (Alberta); “we celebrate diversity in all its forms” (Laval), and “commitment to integrity, equity, diversity” (Waterloo) were typical examples of the statements made in the strategic plans. There was a tendency across institutional policy documents to treat all equity, diversity and inclusion issues as one, and consequently to compile all objectives and activities together. This suggests a slogan-like approach to diversity, potentially overlooking the detailed complexities within each term. This finding is not surprising, as scholars have documented the use of broad language in institutional policies before (Henry et al., 2016). A unique statement was found in Dalhousie’s Diversity and Inclusiveness Progress Report, which stated that “equity, diversity and inclusiveness are related but distinct goals which must be addressed together, not in isolation” (Dalhousie University, 2018, p. 4). This lens al-

lows for taking a more informed organizational approach with distinguishing activities yet integrating approaches for a systemic change.

Only five universities out of fifteen included a formal definition in their policy documents on equity, diversity and/or inclusion. Most expressed institutional principles or purposes rather than stating definitions (e.g. “we are committed to proactively identifying barriers to inclusion”). There were two distinct ideological approaches apparent in relation to equity – equity as fairness versus equity as inclusion. Four universities (Dalhousie, McGill, UBC and Waterloo) viewed equity as a concept of fairness, mentioning “acknowledgement of systemic power and privilege” and stating the need for “redistribution of resources”. A more common approach among the universities was viewing equity as a concept of inclusion, which requires focusing on identifying and removing social and cultural barriers. Six universities explicitly mentioned “removing structural barriers” and “identifying and addressing informal obstacles, barriers, and biases” that limit equitable access and opportunities for equity-seeking groups. As noted in the literature (Clarke, 2014), equity as inclusion allows for organizations to change, so that all individuals can achieve the basic minimum, while equity as fairness allows for changes that can potentially secure the maximum success for equity-seeking groups. Giving up privilege to support the maximum for equity-seeking groups seems to be the less frequently promoted implementation approach among the Canadian universities.

Institutional Performance Reports provided further

details on the framing of the topic by stating indicators and mechanisms universities have adopted to tackle diversity objectives. Indicators such as recruitment statistics, composition of student body (out of town, out of province, outside of Canada, self-identified as Indigenous, women, visible minorities, people with disabilities), student graduation and retention numbers, students' satisfaction with learning, and perception of teaching were some markers used in those reports. Driven by the CRC program requirements, there are four federally designated equity groups that universities use to gather faculty-specific information – women, racialized/visible minorities, persons with disabilities, and Indigenous persons. These categories leave out some equity-seeking groups such as gender and sexual minorities or international scholars. Another weakness of the CRC reports is that they focus primarily on researcher hiring procedures and do not really get to the systemic issues faced by the broader campus community (e.g. students, staff, teaching faculty). We found that equity, diversity and inclusion indicators are largely defined along the lines of federal performance criteria, with only a few institutions aiming to identify institution-specific barriers with the potential of including initiatives that are specifically designed to help issues facing students and other campus community at a particular university.

Strategies Related to Political Commitment

A theme of political commitment emerged to encompass activities dedicated to changes in the organizational structure: hiring decisions at the highest leadership level to include people with diverse lived experiences; funding decisions to support EDI initiatives, and creating space for equity, diversity, and inclusion activities. Informed by our theoretical framework we also examined the stakeholder groups listed in the documents that were involved in developing policy. The data indicated that the institutional strategic plans were mostly created by the university senior leadership with input from student associations, community groups, government representatives and governance committees. Specific statements to include equity-seeking groups for strategic input were mostly not apparent. The involvement of equity-seeking stakeholder groups was more evident in CRC plans where six universities listed participation from the Equity Officers/Consultants, Vice Provost Equity or individuals

from Human Resources and Equity offices. In institutional annual EDI reports the participation of equity-seeking stakeholder groups was most frequently mentioned, with eight universities stating involvement of equity-seeking groups. However, general statements such as "Ad Hoc Committee on Equity", "Provost Advisory Committee" or "Anti-Racism Committee" were made without adding details on who were the individuals actually included. Collaborations with student associations (Waterloo's EDI Plan) and faculty unions (Western's CRC Plan) as a stakeholder group were not mentioned often. Overall, it is evident that policy decisions are still largely made by the university leadership, consisting of a privileged racial group. More work can be done to include explicit voices of people from under-represented groups such as women, people from racialized minority groups, LGBTQ groups, Indigenous communities, international students and faculty in involving them in decision-making regarding institutional EDI policy.

Political commitment is most often associated with changes in the organizational structure and hiring decisions within administrative leadership of the universities. Our findings suggested that seven of the 15 universities have created separate equity, diversity and inclusion offices—University of Calgary, McMaster University, UBC, McGill, Waterloo, University of Toronto, and Queen's University. These offices have designated financial and human capacity to collect information, provide training, organize activities, and suggest recommendations to senior leadership regarding inclusion-related issues on campus.

Some universities have opted to create high-level senior leadership positions related to equity, diversity and inclusion. For example, UBC (in 2015) and McMaster University (in 2018) appointed new Associate Vice-Presidents, Equity and Inclusion. University of Toronto has a position titled Vice-President, Human Resources and Equity. At Queen's University, the role of the Deputy Provost (Academic Operations and Inclusion) was revised in 2017 to focus on equity, diversity, and inclusion in all aspects of the university's operations. Laval University has recently appointed a "directrice du nouvel Institut Femmes, Société, Égalité, Équité" [director of the new institute for women, society, equality and equity]. While many of these senior positions are still held by people of privileged race (white Canadians), there are currently new noteworthy developments happening. One of these is the use of preferential hiring or targeted hiring language (e.g. McGill, Queen's, Ottawa, Alberta, Calgary) for both staff

and faculty as a mechanism to enhance diversity through employment. Positions related to Indigenous engagement (senior administrators as well as faculty members) are often restricted to people who self-identify as Indigenous. Dalhousie University created a precedent in 2018 when it restricted its search for a new senior position (Vice Provost student affairs) to racially visible and Indigenous candidates (CBC News, 2018). More information about the senior leadership hiring practices can be found in institutional Employment Equity Policies, which was beyond the scope of this study. Many statements about "recruiting for faculty diversity" were made across the documents. University of Toronto reported the hiring in 2015–16 and 2016–17 of thirty new Black and Indigenous faculty members, who remain the least-represented groups within the Canadian academy (University of Toronto, 2018). The Université du Québec à Montréal adopted employment equality policies for women back in 1988, before any government requirement, and has expanded it to include visible minorities, Aboriginal people, and people with disabilities (Montreal University, 2018). These are some steps incorporated in the hiring process that have contributed towards creating a more diverse hiring culture among Canadian universities.

Another common approach is to create distinct councils or committees within the organizational structure. For example, Queen's University has established a Council on Anti-Racism and Equity that helps promote engagement in initiatives to address racism and promote equity, diversity, and inclusion. Western University has put together committees for employment equity, women on campus, and barrier-free access, among others (Western University, web). Several universities (e.g. Waterloo, UBC) have created committees to create an Indigenization Strategy. While those offices and committees operate with secured capacity and resources, there is a possibility that they may remain designated equity pockets on campus, yet the broader strategic initiatives expressed in the documents suggest a move towards gradual campus-wide systemic change.

Policy documents are also referring to mandatory campus-wide training programs for researchers, senior administration members such as new deans, vice-deans, and academic unit heads, and tenure and promotion committees to address unconscious biases in decision-making (e.g. at the University of Waterloo, Queen's, and Western). Learning how to detect individual biases among decision-makers helps to bring a critical lens to who gets hired,

showing institutional political commitment to enhancing opportunities for equity-seeking groups.

Strategies Related to Student Recruitment

Tracking student numbers (composition of student body) and focusing on student recruitment activities, sometimes with performance indicators attached, was a prominent theme in institutional attempts to enhance campus diversity. Most universities have developed plans for targeted recruitment campaigns. Institutional documents frequently stated the goal of attracting "top students from across diverse communities" (University of Alberta, 2016, p. 8). The two most often mentioned target groups were international students and Indigenous students. Eight universities out of 15 have developed separate Internationalization Strategies in order to focus their activities on international student recruitment, including the use of performance indicators to measure progress. For example, the University of Alberta's Internationalization Strategy stated, "By 2016, we aim to count 10% of our undergraduate population and 25% of our graduate population as international students" (p. 2). Recruitment of Indigenous students has been addressed in a less campaign-like manner. Four institutions (University of Alberta, Manitoba, McGill, and Queen's) have stated specific performance indicators related to Indigenous student recruitment.

Institutional strategies to support student recruitment have varied from creating undergraduate student recruitment plans (University of Alberta, Dalhousie, Manitoba, Ottawa, Queen's, Toronto, UBC, and Western University), new admissions websites where (racialized) international student profiles are featured (University of Alberta), recruitment training for staff, and developing multiple pathway programs for entry. UBC has developed Aboriginal Access Studies to provide support for Indigenous students in their efforts to access higher education. University of Manitoba offers a free Access program for Indigenous peoples, residents of Northern Manitoba, low-income earners, and newcomers that prepares and transitions learners into degree programs at universities. Some faculties have adopted diversity admission policies. For example, the University of Ottawa's Faculty of Law has created admission categories to diversify the incoming classes of students with regard to their age, their In-

digenous and immigrant status, and their socio-economic circumstances. The University of Manitoba's Faculty of Education has developed a diversity admission policy for their teacher education program following five diversity categories with enrollment targets. These steps taken by the faculties demonstrate proactive action that goes beyond institutional slogans to "embrace diversity" by making space for diversity. However, not all universities are there yet. Several universities in this study were still at the stage of conducting unit and institution-wide assessments to identify issues with student admission and retention before moving forward.

As noted by scholars, student recruitment indicators are problematic as they may lead to treating students as market objects (see Stein & de Andreotti, 2016), particularly if the individual student's unique needs behind those numbers are overlooked. Only by recognizing privilege, creating space, and making distinct programmatic supports available for equity-seeking student groups can institutions truly address the issue of equity, diversity and inclusion. The following section analyzes the new supports provided to students once they are enrolled in a university.

Strategies Related to Programmatic Supports

Along with the student recruitment activities, the policy documents address the availability of student support services in regard to scholarships, bursaries, student advising services, curriculum adaptations and new course offerings. One of the key barriers to university education in Canada is tuition fees for accessing higher education. Financial support is one of the most common strategies that institutions have adopted, providing scholarships and bursaries to students in need. For example, McGill University planned to increase its already existing student aid program from 25% to 30% of total net tuition revenues (McGill, 2017, p. 3). In 2017, UBC launched a fundraising campaign aiming to raise \$100 million in student support over three years for historically excluded student populations. Queen's University has received a \$2.2 million donation, which has enabled the creation of new bursaries for first-year Black Canadian students, first-year visible minority and racialized students, and first-year first generation students.

In addition, there are important programmatic supports provided for students. Institutions have been

hiring permanent staff more frequently to support students' learning needs. Dalhousie University has hired a permanent advisor for its Indigenous Student Center to help with learning needs and advocacy tasks. It has also established a Black Student Advising Center that helps with employment, scholarships, and bursaries (Dalhousie University, 2018). Queen's University has appointed an inaugural Diversity and Inclusivity Coordinator within the Division of Student Affairs to increase the visibility of existing supports that are available for underrepresented students (Queen's University, 2018). At UBC, a Human Rights Advisor position was created in 2017 to offer a space for students' confidential conversations on campus (UBC, 2018). For faculty members, mentorship programs—especially among the CRC position holders—have become a standard activity.

Some institutions have addressed the needs of graduating students to make sure there is a smooth path to overcoming difficulties in finding a job, especially for students representing equity-seeking groups. At Dalhousie, employers were surveyed to explore opportunities to target historically underrepresented students for employment. Montreal University has made it one of their strategic goals to assist students, especially those with special needs, in their integration and successful completion of their studies.

There were many examples in this study of universities' broader institution-wide efforts to create awareness and change through curriculum. UBC has focused on working in partnership with the Indigenous community in efforts to develop culturally inclusive and safe curricula across the university. It has offered a number of training opportunities to help its staff in creating more inclusive classrooms. Workshops have included topics such as inclusive language, mispronunciation of names and misgendering, and inclusion beyond policy. University of Calgary listed over 100 courses and 30 degree options in areas that explore topics related to power, social justice, equity, multiculturalism, and diversity (University of Calgary, 2016). These activities have aimed to avoid the pitfall of equity and inclusion activities falling into small designated pockets within the organizational structure as opposed to creating broader systemic change.

Strategies Related to Research and Scholarship

This theme emerged in relation to the availability of supports for equity-seeking faculty to support their activity through research grants, prioritizing EDI-related research areas and/or establishing new knowledge centers. The literature has suggested that increasing emphasis on research performance and limited ideas around what counts as legitimate knowledge is serving as a barrier to professional success for equity-seeking faculty members in Canada (Acker, Webber, & Smyth, 2012). This analysis suggested that there were a few universities that recognized those barriers, setting aside financial resources for supporting the work of diverse researcher groups. For example, Dalhousie University introduced the Belong Research Fellowship for pre-tenured faculty members from equity-seeking groups with awards up to \$10,000 for research projects. The University of Alberta received an additional \$1 million gift from the Métis Scholar Awards Endowment Fund to recognize research work done by Indigenous faculty (University of Alberta, web). The eligibility criteria for the Queen's National Scholar (QNS) program were revised so that successful candidates must demonstrate their understanding and support of the principles of equity, diversity, and inclusion.

Several universities have concentrated their strategic efforts on strengthening their positions in research areas that focus on topics related to equity, diversity and inclusion. For example, the University of Manitoba has prioritized Indigenous research and scholarship. It has developed the University Indigenous Research Grant Program that aims to foster the inclusion of Indigenous perspectives and support non-Western ways of knowing in research (University of Manitoba, web). The University of Alberta has designated Research at the Intersections of Gender (RIG) as one of their signature areas of research and teaching, focusing on the importance of gender in its intersections with race, class, ethnicity, and religion. UBC has established Centers for Excellence in Indigenous Health (2014) and the Indian Residential School History and Dialogue Centre (2018), among other initiatives.

The analysis indicated that the majority of institutional efforts regarding research and scholarship amounted to tracking the gender and identity of CRC holders. While some efforts have been made in terms of creating new research grants and scholarships and supporting multi-disciplinary knowledge centers on topics around equity and

inclusion, much more can be done to justify institutional commitment to research and scholarship on diversity-focused areas.

Strategies Related to Institutional Climate

As policy documents should be treated not only as written texts but as processes, we looked for evidence on activities and initiatives that may have an influence on broader institutional climate creating certain attitudes, enforcing potential stereotypes, influencing perceptions on behaviors and relationships among and between groups. Hurtado et al.'s (1998) framework of campus life was applied. Statements about historical harm done to Indigenous peoples in Canada were the most common institutional strategy to express concerns over historical legacies across the policy documents. Eleven out of fifteen universities specifically made references to the Truth and Reconciliation committee's Call to Action in education, recognizing the impacts of colonialism in Canada. Most plans listed a wide range of activities initiated as part of the efforts of reconciliation. Historical disadvantage in relation to other equity-seeking groups was not mentioned in institutional strategic documents.

Psychological and behavioral climate on campus is hard to evaluate through policy analysis, as the language used in the texts is typically vague, allowing for wide interpretations and not always reflecting the perceptions or experiences of the targeted groups. We were able to collect information about activities that aimed to support inclusion-related values and behaviors in the documents. Most universities have organized diversity events, celebration weeks, lectures, training sessions, and workshops. For example, the University of Alberta has hosted an annual Equity, Diversity and Inclusion week since 2014 (University of Alberta, 2018). The University of Calgary has held events such as Diversity Week and Black History Month with talks and lecture serie (University of Calgary, 2017). The University of Toronto Scarborough campus has organized a "Rainbow Tie Gala" to celebrate their LGBTQIA2S+ community (University of Toronto Scarborough, web). A few universities (Alberta, McMaster) have developed smudging protocols and Ceremonial Guidelines to support spiritual and ceremonial practices that embrace Indigenous cultural traditions on campus (University of Alberta, web; McMaster University web).

To address the issue of physical access for students with physical disabilities, McGill University significantly increased its budget in 2018-2019 for the Universal Access Capital Projects Working Group to finance capital projects that enhance physical accessibility to campus buildings and properties (McGill University, 2018).

Another common institutional strategy to demonstrate institutional supportive climate and appreciation of work has been the establishment of new award categories (e.g. Dalhousie University, McGill University, the University of Waterloo). While there has been a tendency to award mainly faculty and staff, the Division of Student Affairs at Queen's University has established a new Equity, Diversity, and Inclusion Impact Award for students who have demonstrated their commitment to furthering an understanding of different identities on campus (Queen's University, 2018). Such awards create institution-wide awareness and media attention around the issues of diversity and inclusion and help to draw wider public attention to the specific barriers institutions aim to overcome.

Conclusion and Discussion

The goal of this paper was to understand how 15 Canadian research-intensive universities define equity, diversity and inclusion in their policy documents and then analyze the equity, diversity and inclusion strategies emerging from those documents through critical policy analysis. The following key findings emerged from the study. First, there was some variety in terms of how equity was defined and addressed in the policy documents. The majority of universities define equity as inclusion, focusing on removing institutional barriers to equal access to education. Fewer universities have taken a more radical approach, viewing equity as fairness that requires redistribution of resources. The most profound examples of this approach include the creation of diversity admissions policies for equity-seeking student groups, preferential hiring approaches for administration and faculty, and funding designated to equity-seeking groups for both students and faculty. It remains to be seen how successful Canadian universities are, especially in terms of the redistribution of resources, as institutional decisions are still predominantly made by the dominant racial group. Our analysis also indicated that universities that have established Diversity and/or Equity Offices were more likely to collect more detailed information, monitor EDI

activities, and make proactive recommendations to senior leadership on potential improvements compared to those universities without designated offices. There also seemed to be a variance in terms of the assignment of responsibility for equity, diversity and inclusion. In some cases, it was on all faculty and staff and in other cases, the documents seemed to suggest that equity work belongs only within particular spaces (designated offices).

Second, our findings suggest that there are five main categories of institutional strategies related to engagement with EDI agendas: 1) political commitment; 2) student recruitment; 3) programmatic supports; 4) research and scholarship, and 5) institutional climate. As part of the political commitment, the analysis indicated strong involvement from the university administration to enhance equity agendas on campus. This was evident through prioritizing and funding of a wide range of activities that help to enhance equity agendas: establishing equity offices, creating new senior administration positions and implementing mandatory training for staff; engaging in targeted student and faculty recruitment with programmatic and research support available; implementing diversity admission policies, establishing scholarships and access programs for students; requesting curriculum changes. There seems to be a momentum happening across the universities, which is possible with political decisions made at the top leadership level. While, there still seems to be a continuous pattern of employing people of privileged race and gender in the majority of senior leadership positions, changes are occurring with more attempts to hire racialized (including Indigenous) people in these positions.

The institutional documents showed that universities are currently predominantly utilizing recruitment campaigns as mechanisms for achieving greater diversity on campus. The demographic changes in Canada show an increase in the number of Indigenous youth (Statistics Canada, 2016), which has focused institutional recruitment efforts on Indigenous students. In addition, focus on recruiting international students has been a long-term target for many U15 universities. There are clear economic benefits to universities associated with those recruitment strategies, which makes the availability of programmatic supports of utmost importance.

Our analysis shows that while there are programmatic supports available, more can be done in order to achieve a balance between increasing student recruitment and supporting the success of equity-seeking stu-

dents while enrolled. For example, international students were not considered an equity-seeking group in the institutional policy documents. In institutional efforts to embrace equity, Canadian universities continue to collect significantly higher tuition fees from international students to ameliorate cuts in government funding (Guo, Y. & Guo, S., 2017). There was limited evidence on articulating supports to international students in regard to cultural adjustment (food and climate), clarifying Canadian academic culture (e.g. plagiarism, expectations of students, relationship with faculty) or addressing social problems (e.g. arrival confusion, the maintenance of self-esteem, homesickness, making friends). Without those unique and often individualized supports, international students, as noted in the literature, can be minimized down to serving as "cash", "competition" or "charity" (Stein & Andreotti, 2016) for the university, not fully integrated into many aspects of campus life.

On the research and scholarship front, the struggle for achieving equity and inclusion has been especially pertinent. There were very few universities that have listed targeted activities for addressing the unique research-specific needs of equity-seeking faculty. As a result of the Canadian federal governments' CRC programmatic requirements, all Canadian research-intensive universities are required to develop policies and are tracking institutional performance regarding equity, diversity and inclusion in hiring Canada Research Chairs. It is important to reiterate that this road towards stronger political attention to EDI issues in the CRC program has not been smooth sailing in Canada but rather a continuous struggle where change has been achieved only after engaging in a serious legal battle. Equity targets for the CRC program were established only after eight women filed a complaint with the Canadian Human Rights Commission in 2003, followed by a mediated settlement in 2006 (see Side & Robins, 2007). Consequently, questions emerge regarding the motives of the institutional engagement with the EDI hiring agendas, wondering if this is an altruistic development from the part of the university administrations or a calculated survival strategy in the climate of fiscal restraints. Establishing various indicators may be a sign of a neoliberal measurement culture, yet those performance reports seem to hold institutions accountable to demonstrating their actual achievements in supporting equity, diversity and inclusion to the government and public.

To build a supportive institutional culture, a wide

range of activities, including celebratory events and award categories have been put in place to recognize the value of diversity and create a more inclusive organizational culture in the long run. Overall, the data indicates that there is definitely momentum building towards supporting EDI agendas across Canadian universities. As such, this topic requires more in-depth analysis to get more insights from the implementation side of things. Our findings are derived from the policy analysis and need to be supported by the lived experiences of key stakeholder groups—such as university administration, equity-seeking faculty and student groups—to get a better understanding of how those policies have been designed, implemented, received, and experienced. Additional insights from university unions and student and faculty associations would provide valuable information on the topic. Furthermore, lived experiences of people would allow for examining of intangible factors such as the institutional culture, power relationships, behaviour, and overall campus climate, all of which are difficult to detect through document analysis. It would also allow for providing of additional perspectives on the overall motivations and rationales for universities engaging in the EDI agendas.

Nevertheless, the fact that policy documents show an increased tendency towards creating awareness and defining EDI issues from a critical perspective demonstrates that people in power are gradually starting to pay more attention to the voices of equity-seeking groups. Identifying institution-specific systematic barriers and addressing those with action plans and indicators incorporated in implementation reports gives hope for a broader and better-informed change. Policy documents influence action and activities listed in the policy documents are important steps towards initiating institutional change, while recognizing the need to include more voices from those on the receiving end of EDI policies.

There is no shortage in the academic literature of criticism regarding the tokenistic slogans universities have used to enhance equity, diversity and inclusion strategies (Clark et al., 2014; Henry et al., 2016; Iverson, 2007), and rightfully so. Achieving equity and inclusion is a complex and continuous task for higher education institutions. While many barriers still remain—and new ones are emerging—the analysis in this study showed that Canadian universities are gradually taking a pro-active approach to creating broader awareness and alleviating issues related to equity, diversity, and inclusion. The analysis presented in this paper aims to recognize that

work and contribute knowledge that might be helpful for other institutions in similar and continuous efforts to build inclusive learning environments for all.

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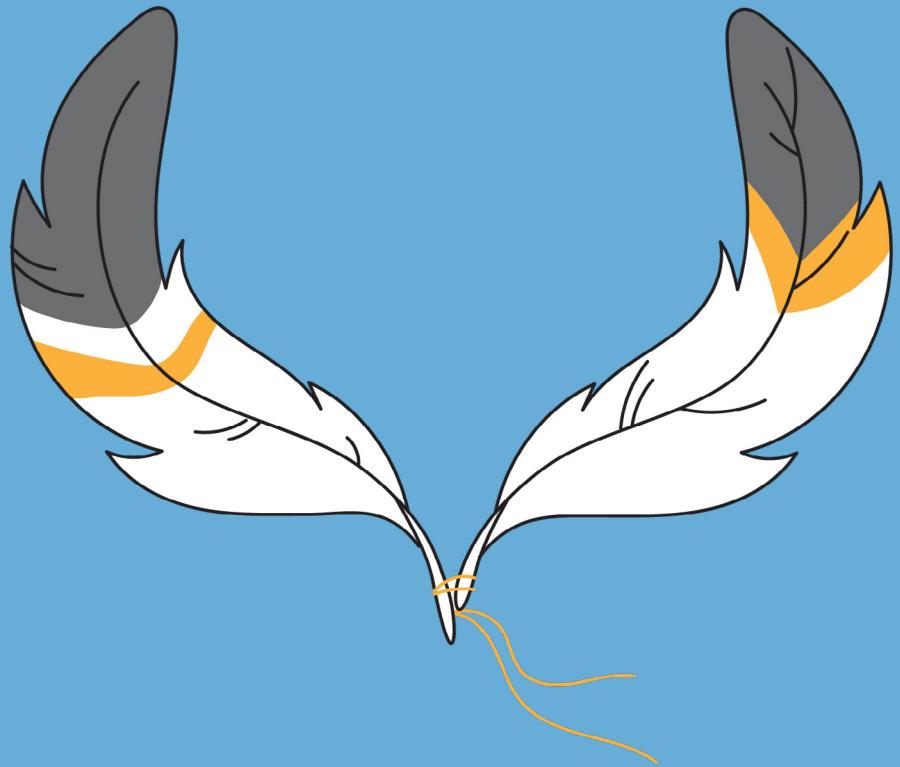
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Notes

- 1 The Canada Research Chairs (CRC) program was established in 2000 by the federal government to create 2,000 research professorship positions—Canada Research Chairs—in eligible degree-granting higher education institutions. Government invests approximately \$265 million per year to attract and retain a diverse cadre of world-class researchers in Canadian postsecondary institutions (Government of Canada, 2019).

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MODULE 2

Where are the Indigenous, Black, and POC Creatives? Not where you are.

7 Tips on Building Relationships with Indigenous Peoples

BY BOB JOSEPH

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The quality of your relationship with an Indigenous community will be measured by the effort invested and the integrity of your team. You have to realize why it is critical that a respectful relationship is fundamental to the success of any pending business partnership. If you hold onto the concept that it's a business-to-community relationship you are developing as opposed to a business-to-business relationship, then you will be off to a good start.

Here are some key considerations to keep in mind when nurturing relationships with Indigenous Peoples:

1. Be trustworthy.

You know what they say about trust: it takes years to build, seconds to break, and forever to repair. In terms of trust in a relationship with an Indigenous community, it is arguably the most important element. If looking at relationship building from the perspective of a resource development proponent, keep in mind that there's a long history of broken promises in terms of environmental protection, employment, revenue sharing, and community benefits. If looking from the perspective of government relations it's a timeline of broken promises that dates back to Confederation.

Reflections in 2017 on the 1967 Centennial Speech of Chief Dan George (<https://www.ictinc.ca/blog/>

reflections-in-2017-on-the-1967-centennial-speech-of-chief-dan-george).

Making empty promises to bolster the appeal of your proposal is not a recommended action. Adopt the mantra of "promise less, deliver more."

2. Be transparent.

Transparency is a close cousin to trust. If you aren't transparent, you won't gain the trust you need.

- Be transparent in your communications right from the start.
- Be transparent about your plans.
- Be transparent when problems arise.

3. Be respectful.

One sign of respect is thoroughly researching the community you want to work with. If you are interested in working with them you should be interested in learning about them, their history, worldviews, governance structure, culture, traditions, and economy. Developing a genuine understanding of the community means you care enough to devote the time and resources for the research.

4. Be invested.

It takes time and resources to build a relationship with an Indigenous community. You're looking at many visits, meetings, and phone calls over a long space of time. Write this extra activity into your budget.

5. Be involved.

If you have a partnership with a community then be involved in the community. Your relationship is with the entire community – not just the economic development department or the chief and council. Show that your interest is deeper than mere business. Support and attend events. Celebrate with them. And bring your kids so they can learn about the culture along with you.

6. Be patient.

If you have done your research you will know that most development decisions are community based. Also keep in mind that the connectivity principle plays a significant role in decision making so don't expect conversations to be about one subject. An additional factor that affects decision making is the capacity of the community to process the requirements of your project. Chief and council are very busy with community concerns and events - your project is another demand on their time and resources, which in a smaller community can be a considerable burden.

Building Indigenous community capacity and the duty to consult (<https://www.ictinc.ca/blog/building-indigenous-community-capacity-and-the-duty-to-consult>).

7. Choose your team carefully.

Ensure the right people in your organization are attending the meetings and ensure there is continuity in who attends the meetings. If the primary contact from your organization moves on, try to ensure his/her replacement is brought up to speed on the relationship/consultation/negotiations prior to them going to their

first meeting with the community. Bringing your staff up to speed is not their responsibility. At the risk of sounding self-promotional, I do recommend your staff take Indigenous cultural competency training before anyone contacts the community - you only get one chance to make a first impression.

There you have it. Seven quick tips for you to keep in mind when building relationships with Indigenous Peoples.

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ADDITIONAL RESOURCES

Worldviews

<https://www.ictinc.ca/blog/indigenous-peoples-worldviews-vs-western-worldviews>

Culture

<https://www.ictinc.ca/blog/respecting-the-cultural-diversity-of-indigenous-peoples>

Connectivity Principle

<https://www.ictinc.ca/blog/what-does-indigenous-connectivity-mean>

Indigenous Cultural Competency Training

<https://www.ictinc.ca/training/working-effectively-with-indigenous-peoples>

Levels of Participation

BY SARAH MACBETH

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Participation is a ‘buzz word’ in international development, a term that embraces a wide range of possible meanings. Many different actors in development adopt the language of participation, but with different and sometimes contradictory motivations and objectives. Here we look at different meanings of participation and discuss two important typologies that highlight the different ways the word has been used and the outcomes that have resulted.

The many meanings of participation

As one of the key words in development, participation is used by actors from very different political backgrounds. Lack of conceptual clarity poses real risks. Representatives from opposite ends of the political spectrum use the language of participation but mean different things. Some speak of transforming power structures in society that oppress the poor, while others talk of the economic participation needed to advance a neoliberal agenda. In local politics, ‘participation’ can mask manipulation, or the legitimization of interventions driven by more powerful actors in which citizens have no control.

Clarity and specificity are therefore necessary in any policy discussion or intervention claiming to make use of participatory approaches. It helps to understand what citizens actually do or what is done to them, when they

are encouraged to participate. It also helps to understand participation as something deeply political, and to retain the notion of rights and empowerment.

To clarify the concept of participation, a number of scholars have formulated typologies which outline different levels of participation. Two well-known efforts are Sherry Arnstein’s 1969 ladder of citizen participation and Sarah White’s 1996 work on the forms and functions of participation.

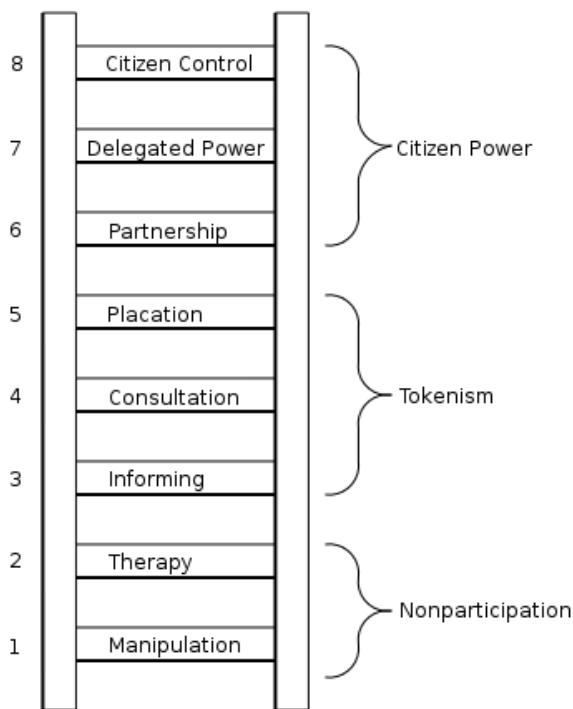
The ladder of citizen participation

The ladder of citizen participation (shown below) has eight steps, each representing a different level of participation. From bottom to top, the steps explain the extent of citizen participation and how much real power citizens have to determine the process and outcomes.

The ladder is a useful tool for interpreting what is meant when programmes and policies refer to ‘participation’. Arnstein uses the terms ‘the powerful’ and ‘citizens’ as shorthand, but emphasizes that neither are homogenous entities; and that each grouping contains actors with more or less power.

At the lowest end of the ladder, forms of non-participation are used by powerful actors to impose their agendas. Participation as tokenism occurs when

participants hear about interventions and may say something about them, which power holders denote as ‘input’. However, the voices of participants will not have any effect on the intervention; thus participation does not lead to change. At the higher end of the ladder, participation is about citizens having more power to negotiate and change the status quo. Their voices are heard *and* responded to.



Source: Arnstein, S. (1969) ‘A ladder of citizen participation’, Journal of the American Institute of Planners 35.4: 216–224

What the ladder does not show are the actions and barriers to move from one level to the next. Finally, in real-life situations many more levels may exist, and people may move up and down the ladder over time within the same intervention.

The forms and functions of participation

Sarah White distinguishes four forms of participation: nominal, instrumental, representative and transformative. She reasons that each form has different functions, and argues actors ‘at the top’ (more powerful)

and ‘at the grass roots’ (less powerful) have different perceptions of and interests in each form.

- **Nominal participation** is often used by more powerful actors to give legitimacy to development plans. Less powerful people become involved in it through a desire for inclusion. But it is little more than a display, and does not result in change.
- **Instrumental participation** sees community participation being used as a means towards a stated end – often the efficient use of the skills and knowledge of community members in project implementation.
- **Representative participation** involves giving community members a voice in the decision-making and implementation process of projects or policies that affect them. For the more powerful, representative participation increases the chances of their intervention being sustainable; for the less powerful, it may offer a chance for leverage.
- **Transformative participation** results in the empowerment of those involved, and as a result alters the structures and institutions that lead to marginalisation and exclusion.

White’s work helps us to think about hidden agendas and the dynamic relationships between more and less powerful actors. Discussing the differences or compatibilities between bottom-up and top-down interests can lead to a clearer understanding of the politics of participation. The actors at the top may talk about participation, but intend to maintain the status quo. It is only in ‘transformative participation’ that the power holders are in solidarity with the less powerful to take actions and shape decisions.

White emphasizes that this framework needs to be seen as something dynamic, and that a single intervention can include more than one form of participation.

Sample Position Description and Tips

UNIVERSITY OF WASHINGTON

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Sample position description and tips. The <Department> has an outstanding opportunity for a <Business title>.

Diversity Statement (for department): Diversity is a core value at University of Washington and in the <Department>. We are passionate about building and sustaining an inclusive and equitable working and learning environment for all students, staff, and faculty. We believe every member on our team enriches our diversity by exposing us to a broad range of ways to understand and engage with the world, identify challenges, and to discover, design and deliver solutions.

Tip: Your diversity statement should reflect the values and importance of Diversity, Equity, and Inclusion (DEI) unique to your department/team. This is also an opportunity to highlight any specific DEI goals, issues, or initiatives in your department.

Position Purpose: Provide support to the Manager for Faculty Advancement and for work conducted on behalf of the <Department>. Integrate information from multiple sources in order to encourage agenda setting for meetings of the University Diversity Council. Coordinate events, planning, and programming for the Diversity Council and related to the UW Diversity Blueprint, as well as for those related to staff recruitment and retention. Contribute to the work conducted on staff

diversity recruiting and retention strategy-building for the University. Assemble information for and maintain campus-wide inventories of diversity training/workshop providers and other diversity-related topics.

Tip: The position purpose should provide a high-level overview of why the position exists and briefly identify the most important priorities of the position. This is an opportunity to highlight any features or duties of the position specifically related to the DEI work of the department. For example, the position may require the individual to be highly knowledgeable about DEI best practices, or to work closely with marginalized populations and communities.

Position Complexities: This position requires an individual who is especially detail-oriented and has strong organizational skills. It requires an individual who is skilled at event planning and at producing event announcements and other marketing materials. The selected candidate should be comfortable with identifying and pursuing creative problem solving, as well as have the ability to effectively write and communicate in a concise manner to a variety of stakeholders.

Tip: The position complexities should speak to the unique responsibilities, scope, and challenges of the position. It provides an opportunity to highlight specific skills and competencies needed to be successful in the role.

Position Dimensions and Impact to the University: This position has specific duties that impact the University, including working with staff and faculty from across campus on diversity-related planning and responsibilities that are specific to the development and implementation of the University's Diversity Council and Diversity Blueprint. In addition, the position has responsibilities of planning and coordinating the five annual meetings of the UW Diversity Council. Additional job duties include coordinating programming-related activities related to the faculty/staff affinity groups.

Tip: This section should speak to the specific impact the position and your department has on the University. It is an opportunity to connect potential candidates to the mission and value of the position, and reiterate any features of the position that are related to any University-wide DEI goals and initiatives.

CORE RESPONSIBILITIES

Diversity Blueprint Planning and Implementation Support (25%)

- Coordinate meetings, materials, and stakeholders related to the development of the Diversity Blueprint; create event marketing materials for these meetings.
- Coordinate work related to the Diversity and Inclusion Seed Grants, including collecting and organizing completed applications, scheduling meetings and preparing materials for application reviewers, and informing applicants about decisions.
- Gather and effectively communicate on-campus resources available to assist units in meeting established diversity goals.
- Organize events to advance the goals of the Diversity Blueprint and/or enhance diversity efforts administered by the Vice President/Chief Diversity Officer as needed.

Diversity Council Membership and Meeting Coordination (25%)

- Manage the membership terms of and maintain

contact with Diversity Council members. Serve as point of contact for and effectively communicate with all Diversity Council members.

- Interpret, analyze, and clearly communicate content created through small group discussions and activities.
- Plan and coordinate the five annual meetings of the Diversity Council.

Staff Recruitment and Retention (25%)

- Assist in identifying resources for the Staff Diversity Hiring Toolkit; update Toolkit resources and maintain the content of the Toolkit website.
- Assemble resources and create handouts to supplement the Staff Diversity Hiring Toolkit.
- Provide support on planning related to Faculty and Staff Diversity Hiring Workshops, as well as with requests for data and other hiring resources; coordinate workshop events and maintain registration lists, as necessary.
- Coordinate meetings and activities for faculty/staff affinity groups; act as primary point of contact for the groups as well as oversee all affinity group budgets.
- Design and create marketing materials to promote campus awareness of the affinity groups; design and create marketing materials for other position-related events or announcements.

Diversity Resources Coordination (25%)

- Create and maintain database of individuals available campus-wide to provide training and workshops on diversity-related topics; serve as point of contact for campus inquiries on diversity training options.
- Create, maintain, and disseminate database of individuals campus-wide who plan and/or coordinate diversity-related events to promote collaboration on those events.

Tip: Core responsibilities should be clear and concise. Include the specific functions and duties regularly performed with a percentage of time for each major

function. Listing specific duties of each function is not necessary for job postings, but should be described in more detail in the position description.” Limit bullet points to 3 to 5 per function.

MINIMUM REQUIREMENTS:

- Demonstrated commitment to valuing diversity and contributing to an inclusive working and learning environment
- Two years of experience in diversity related programs OR equivalent education/experience
High school graduation or equivalent

Tip: Minimum requirements should only include “must haves” such as technical experience, base-level education, and certifications. These basic qualifications should be identified in your evaluation criteria matrix (ideally completed prior to posting the position). Listing a specific number of years of experience or education may create an unnecessary barrier in which quantity may be valued over quality. Refer to union contracts and check with compensation about years of experience requirements for specific roles. Limit or avoid using a specific number of years when possible. All positions should require the demonstrated commitment to value diversity and contribute to an inclusive working and learning environment.

ADDITIONAL REQUIREMENTS:

- Proven writing skills, detail-orientation, ability to coordinate multiple ongoing events, and manage multiple email accounts.
- Experience in event planning, coordinating meetings, designing marketing materials/event announcements, and working on diversity-related programs or initiatives.

Tip: Additional requirements should be added when there are specific skills, knowledge, and competencies needed to perform the core responsibilities of the position beyond the minimum requirements. Additional requirements may be transferable and do not have to be an “all or nothing” threshold, but should be essential to high performance and success in the role.

DESIRED:

- Demonstrated proficiency in MS Word, Excel, SharePoint and Outlook Project Management experience
- Training/Facilitation skills Bachelor’s degree

Tip: Desired requirements are not a necessity and should only be included if the “ideal” experience, and level of expertise is needed for optimal performance. Advance degrees can be listed as “desired”, but may create an unnecessary exclusion and limit the diversity of your applicant pool. When possible, limit your requirements to “must haves” and base-level education. The goal is not to lower your standards, but to eliminate unnecessary barriers and create more equitable and inclusive recruiting practices.

Equivalent education/experience can substitute for all minimum qualifications except when there are legal requirements, such as a license/certification/registration.

Tip: Education/Experience equivalent statements provide an option to be more inclusive when assessing for specific education and experience qualifications. The standard equivalency ratio is one year of experience for one year of education. However, to ensure all equivalencies are applied consistently, be sure to document equivalency options/ratios as part of the screening criteria. Partner with your HR recruiter, department HR representative and all search committee members to ensure everyone is clear on what equivalencies are acceptable to qualify an applicant for the position.

The Racism of the ‘Hard-to-Find’ Qualified Black Candidate Trope

BY AUTUMN MCDONALD

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Stereotypes and racial bias in hiring and promotion are damaging at personal, career, and organizational levels.



Illustration by Nyanza D

Many organizations endeavored to institute structural changes to racial equity efforts following the morbid booster shot effect of George Floyd’s murder on stagnant national conversations about race. Countless companies released statements, and some took actions that focused on anti-racism instead of mere inclusion. Yet, while attention to culture and new ideas can be modes of influence, organizations—whether dot org, dot gov or dot com—ultimately make their most significant changes through internal policy. Hiring and promotion policies determine an organization’s makeup. And this past year’s dramatic increase in remote work has demonstrated that institutions are not buildings or products—they are the talent: the talent that comes, the talent that stays,

and the talent that leads. The importance of hiring and promotion in the workforce makes the problematic trope of the “hard-to-find” qualified Black candidate more than just a stereotypical cliché: its damaging effects are an enduring racist cog in the wheel of progress.

A Leader Says the Quiet Part Out Loud

Last spring during a Zoom meeting with staff, Wells Fargo’s CEO Charles Scharf said that the bank had trouble reaching its diversity goals because there was simply not enough qualified Black talent, reiterating in a company-wide memo: “While it might sound like an excuse, the unfortunate reality is that there is a very limited pool of black talent to recruit from.” Reuters reported that “Black senior executives across corporate America said they are frustrated by claims of a talent shortage, and called the refrain a major reason that companies have struggled to add enough racial and ethnic diversity to leadership ranks, despite stated intentions to do so.” By September, Scharf had apologized, calling his comment “insensitive,” and said that it reflected his “own unconscious bias.”

By using the language of “sensitivity,” the apology reduces the racial bias and its harmful effects to a matter of hurt feelings. However, Scharf’s words are more than indelicate; they harm worker confidence and sense of belonging. His words don’t just reflect a largely accepted way of thinking, they reflect the harm potentially

inflicted throughout an entire career—in hiring, promotions, and organizational culture.

A Common Refrain

The Wells Fargo CEO is not alone. The beliefs that qualified Black candidates are rare and that Black employees are not as qualified for promotion as their white colleagues are real and far more common than many may realize. Within multiple organizations, hiring managers claim that they couldn't diversify a program, team, panel, or advisory council because the Black candidates simply weren't there to be hired. Whether hampered by a "tight timeline" or daunted by the "extra effort" of finding a qualified Black candidate, they insist that organizational diversity is too hard to achieve, not because of the efforts being made to do so, but because of the talent pool.

Derrick Hamilton, professor of economics and urban policy at the New School, has rebuffed the claim of some technology companies that there is a severe shortage of qualified Black and Hispanic candidates in Silicon Valley. The "claim does not hold water," he contends, citing a USA Today report showing that Black and Hispanic computer scientists and computer engineers graduate from top universities at twice the rate that leading technology companies hire them. Dominant groups make the excuse that they "'searched but there was nobody qualified,'" but, Hamilton observes, "if you look at the empirical evidence, that is just not the case."

When business leaders ask if diversity should be more important than "merit," this query betrays the false impression that these goals are mutually exclusive. Several hiring agencies and DEI professionals supporting organizational change have confirmed that this refrain is commonplace. DEI consultant Tamara Osivwemu says, "It's definitely a trope. I've heard it from many clients, even those with the best of intentions—the ones really trying to do the work—who say, 'We want to get diverse candidates, we want to do our part, but we absolutely can't let our quality of work, or expectations suffer.'"

Foundational Fallacies

The foundation that both supports and perpetuates this set of harmful organizational practices is comprised of four primary fallacies.

Objectivity | The notion that there is a single, most-qualified candidate or employee is false. There is great variation in how two applicants with different experiences and skills would successfully perform the same role. Assigning a "most qualified" label is based on measures that are difficult to quantify and are nested in opinion. The rubrics used in hiring and promotion are highly subjective. This subjectivity can lead to false narratives that repeat stereotypes about applicant potential, assumptions often steeped in bias.

Meritocracy | Subjective criteria associated with likability still figure strongly into the hiring process, usually couched in the organizational language of "culture fit" and expressing a desire for candidates who are similar to the employer. Similarity plays a significant factor in this equation: more often than not, someone considered a "good culture fit" is someone "I'd want to grab a beer with," someone "like me."

Who is the "me" in this scenario? According to research on Fortune 500 companies, the majority of organizational hiring managers and leadership are white men. It is no surprise that a cycle of exclusion is perpetuated when most

Americans have largely homogenous friend and peer groups and a large percentage of hiring happens through these networks. Per a LinkedIn survey, nearly 85 percent of jobs are filled through networking, making social capital, rather than so-called "meritocracy," a critical element of hiring and promotions.

Equal Goal Posts | If organizations find it challenging to identify qualified Black candidates, it might be because racial biases have skewed the perception of "qualified," moving the goalposts for both Black candidates and employees. A commonly held

belief among many Black workers is that one needs to be twice as good as their white peers to simply be considered on par with them. Indeed, a six-year study found that people of color had to manage their careers more strategically than their white colleagues and to prove greater competence before winning promotions.

Bad Apples | Hiring and promotion practices are often executed at the individual level, which can lead to the misconception that problematic behaviors are one-off occurrences. It can be difficult to see the systemic nature of this sort of workplace racism. Akin to the “bad apple” concept in policing, many managers and those in leadership positions are comfortable considering these practices as merely individual occasions of unconscious bias rather than products of a system-wide failing.

The Individual Burden of Workplace Racism

Inconsistent levels of scrutiny imposed during the hiring process creates an additional burden for individual Black candidates. A Vox article chronicles how a white male candidate was ushered to the final round of a job search alongside a Black female candidate, despite the fact that he had less relevant and fewer years of experience, graduated from a far less prestigious university, and did not have an advanced degree. She faced additional hiring requirements—more interview rounds, screenings, writing samples, references—beyond those agreed upon with the client organization. These additional steps amounted to asking the Black candidate to “prove it again” and revealed the client’s doubt regarding her qualifications; doubt not shown for the other candidate.

For many Black employees, this problematic behavior persists after being hired. A Harvard Business Review article shows this trend spans sectors and industries, where Black employees still face obstacles to advancement and are less likely than their white peers to be hired, developed, and promoted. Workplace discrimination adds stress and threatens an employee’s sense of belonging and overall well-being, and Black workers navigate a work experience that is demonstrably worse even than that of other people of color. Many

face explicit racism, on the rise over the past few years, as well as subtle racism on the job. The more subtle elements include “aversive” racism (when people avoid or change their behavior around those of different races) and “modern” racism (the belief that the ability of Black people to compete in the marketplace means discrimination no longer exists, that we live in a “post racial” society). In addition, there are microaggressions—brief and commonplace verbal, behavioral, or environmental indignities, both intentional and unintentional.

Additional assumptions that can burden Black employees include being perceived as the “diversity hire.” When organizations suggest that diversity comes at the expense of quality, Black hires may feel a need to combat the belief that we are a company’s diversity good deed, and awareness of this sentiment can have a detrimental effect on Black employees’ sense of belonging and experience of the workplace.

Organizational Repercussions

The hard-to-find qualified Black candidate trope is a flavor of systemic racism that also limits an organization’s incoming workforce diversity. It is understandably challenging to attract diverse talent without an existing heterogeneous staff. When organizations cannot provide examples of employees of color contributing, flourishing, and building their careers, applicants of color are justifiably skeptical of accepting a job within them.

Organizations that ignore workplace racism empower it, which hinders an employer’s ability to be productive. Awareness of the competitive advantage of equity and diversity is rising, with many organizations regarding inclusion and diversity as critical enablers of growth. Research has demonstrated the return on investment (ROI) of racial equity. Yet, even with the business case made, lower hiring and promotion rates for Black candidates and employees persist.

Finally, it does white employees and hiring managers no favors to enable bad behavior. Overlooking racism among staff squanders a solid learning opportunity and sends the message that the behavior is condoned or, even worse, embraced. If people, Osivwemu says, “fall into the trap of thinking implicit bias is the friendly cousin of racism,” they will have dressed it up as something far more innocuous than it is. In order to show up as committed and accountable problem solvers, white employees and leadership need to see racism in the workplace as their problem, not someone else’s story with which to sympathize.

Introspection and Action

When attempting to come to terms with institutional racism, avoid simply hiring staff of color without addressing underlying issues that created a hostile office in the first place. Consider the case of the Bon Appetit test kitchen, which came under fire last summer when it was revealed that staff of color on their hugely popular YouTube channel were paid significantly less than their white colleagues—and, in some cases, not at all—for video appearances. While show producers diversified the chef lineup later that year, some were concerned that the fundamental issues like hostile workplace culture and pay inequity were not resolved.

There are no easy answers or quick fixes to address racial inequity in the workplace. It necessitates going beyond “woke-washing”—appropriating social activism language into marketing materials—or hollow gestures, to make sure efforts reflect solid commitments to explicit internal and external changes. Turn the lens inward by exploring internal policies, practices, and structures, as Demos did, when this two-decade-old public policy organization, embarked on an organization-wide racial equity transformation and published their process and lessons.

Other contextual and strategic resources include a McKinsey & Co. Race in the Workplace report published in 2021, which explores Black worker participation, representation, advancement, and a

path forward, including actions companies can take. W. Kamau Bell’s United Shades of America—which the host has called Sesame Street for grown-ups—is another introspection tool. And culture commentator Jay Smooth’s TEDx talk, “How I Learned to Stop Worrying and Love Discussing Race,” is a great primer for broaching internal race-related conversations. He tackles the defensiveness that often accompanies these discussions via a reframe from talking about who someone is to what was said or done. He also addresses the false binary of being or not being a racist and discusses the general “goodness” of people as a practice, not a static state. Exploring multiple resources like these as a starting place is important, but so too is doing the work to chart your own path of discovery, change management, and organizational transformation.

Organizations embarking on a transformational journey can benefit from asking themselves some hard questions:

1. How is your organization combating the meritocracy myth at a structural level?
2. How could you dismiss the valuing of sameness and instead replace it with valuing those who can add to existing organizational culture? How can you create what writer Brené Brown calls “transformative cultures” and eliminate or emend the “culture fit” component of hiring?
3. Are you willing to prioritize diversity targets in the same stringent way that a Fortune 500 company might prioritize sales goals? What is the level of accountability? Will leadership be removed if they fail to produce results?

True investment in creating a diverse and inclusive culture sometimes requires drastic changes. If your organization’s make-up is 8 percent from underrepresented groups, but your aim is 30 percent, it may mean hiring exclusively from these populations until the goal is met. This could, in some cases, include members of dominant groups stepping up by stepping back. Reddit’s cofounder, Alexis Ohanian, became an example of this when he stepped down from Reddit’s board and specifically asked that the board replace him with a Black board member. “I believe resignation can

actually be an act of leadership from people in power right now,” he said of his decision. Less than a week after he stepped down, Reddit named entrepreneur and Y Combinator managing director Michael Seibel as the first Black board member in the company’s history. No one is quite sure why George Floyd’s murder, and not the murders of countless other Black people, snapped the world, even if momentarily, out of a stupor of indifference. But it’s important that leaders connect atrocities happening “out there” to what is happening within organizations, companies, and institutions. We should not squander this season of awareness, and we should recognize that this is about much more than an opening for incremental change. It is a chance to do what is indeed serious work. It’s systems-level work. And it is forever work.

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AUTUMN MCDONALD (@Autumn_McDo) is a New America senior fellow and head of New America CA. Her work focuses on issues of economic equity, community engagement, resident voice, policy influence, and narrative change. McDonald’s writing has been featured in numerous publications including her article, “The Talk,” published at Slate.

ADDITIONAL RESOURCES

<https://www.forbes.com/sites/jemimamcevoy/2020/09/23/wells-fargo-ceo-apologizes-for-saying-theres-a-limited-pool-of-black-talent/?sh=32e364ec4622>

<https://www.reuters.com/article/us-global-race-wells-fargo-exclusive/exclusive-wells-fargo-ceo-ruffles-feathers-with-comments-about-diverse-talent-idUSKCN26D2IU>

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<https://www.hrdive.com/news/the-talent-textbook-a-lack-of-black-talent-is-a-longstanding-myth/586523/>

<https://www.usatoday.com/story/tech/2014/10/12/silicon-valley-diversity-tech-hiring-computer-science-graduates-african-american-hispanic/14684211/>

<https://vervoe.com/diversity-hiring/#is-diversity-more-important-than-ability>

<https://thegrio.com/2021/03/01/america-racist-images-media-fashion-art/>

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Truth and
Reconciliation
Commission of Canada

Truth and Reconciliation Commission of Canada: Calls to Action





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2015

Truth and Reconciliation Commission of Canada, 2012

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Calls to Action

In order to redress the legacy of residential schools and advance the process of Canadian reconciliation, the Truth and Reconciliation Commission makes the following calls to action.

Legacy

CHILD WELFARE

1. We call upon the federal, provincial, territorial, and Aboriginal governments to commit to reducing the number of Aboriginal children in care by:
 - i. Monitoring and assessing neglect investigations.
 - ii. Providing adequate resources to enable Aboriginal communities and child-welfare organizations to keep Aboriginal families together where it is safe to do so, and to keep children in culturally appropriate environments, regardless of where they reside.
 - iii. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the history and impacts of residential schools.
 - iv. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the potential for Aboriginal communities and families to provide more appropriate solutions to family healing.
 - v. Requiring that all child-welfare decision makers consider the impact of the residential school experience on children and their caregivers.
2. We call upon the federal government, in collaboration with the provinces and territories, to prepare and

publish annual reports on the number of Aboriginal children (First Nations, Inuit, and Métis) who are in care, compared with non-Aboriginal children, as well as the reasons for apprehension, the total spending on preventive and care services by child-welfare agencies, and the effectiveness of various interventions.

3. We call upon all levels of government to fully implement Jordan's Principle.
4. We call upon the federal government to enact Aboriginal child-welfare legislation that establishes national standards for Aboriginal child apprehension and custody cases and includes principles that:
 - i. Affirm the right of Aboriginal governments to establish and maintain their own child-welfare agencies.
 - ii. Require all child-welfare agencies and courts to take the residential school legacy into account in their decision making.
 - iii. Establish, as an important priority, a requirement that placements of Aboriginal children into temporary and permanent care be culturally appropriate.
5. We call upon the federal, provincial, territorial, and Aboriginal governments to develop culturally appropriate parenting programs for Aboriginal families.

EDUCATION

6. We call upon the Government of Canada to repeal Section 43 of the *Criminal Code of Canada*.
7. We call upon the federal government to develop with Aboriginal groups a joint strategy to eliminate

- educational and employment gaps between Aboriginal and non-Aboriginal Canadians.
8. We call upon the federal government to eliminate the discrepancy in federal education funding for First Nations children being educated on reserves and those First Nations children being educated off reserves.
 9. We call upon the federal government to prepare and publish annual reports comparing funding for the education of First Nations children on and off reserves, as well as educational and income attainments of Aboriginal peoples in Canada compared with non-Aboriginal people.
 10. We call on the federal government to draft new Aboriginal education legislation with the full participation and informed consent of Aboriginal peoples. The new legislation would include a commitment to sufficient funding and would incorporate the following principles:
 - i. Providing sufficient funding to close identified educational achievement gaps within one generation.
 - ii. Improving education attainment levels and success rates.
 - iii. Developing culturally appropriate curricula.
 - iv. Protecting the right to Aboriginal languages, including the teaching of Aboriginal languages as credit courses.
 - v. Enabling parental and community responsibility, control, and accountability, similar to what parents enjoy in public school systems.
 - vi. Enabling parents to fully participate in the education of their children.
 - vii. Respecting and honouring Treaty relationships.
 11. We call upon the federal government to provide adequate funding to end the backlog of First Nations students seeking a post-secondary education.
 12. We call upon the federal, provincial, territorial, and Aboriginal governments to develop culturally appropriate early childhood education programs for Aboriginal families.
- LANGUAGE AND CULTURE**
13. We call upon the federal government to acknowledge that Aboriginal rights include Aboriginal language rights.
 14. We call upon the federal government to enact an Aboriginal Languages Act that incorporates the following principles:
 - i. Aboriginal languages are a fundamental and valued element of Canadian culture and society, and there is an urgency to preserve them.
 - ii. Aboriginal language rights are reinforced by the Treaties.
 - iii. The federal government has a responsibility to provide sufficient funds for Aboriginal-language revitalization and preservation.
 - iv. The preservation, revitalization, and strengthening of Aboriginal languages and cultures are best managed by Aboriginal people and communities.
 - v. Funding for Aboriginal language initiatives must reflect the diversity of Aboriginal languages.
 15. We call upon the federal government to appoint, in consultation with Aboriginal groups, an Aboriginal Languages Commissioner. The commissioner should help promote Aboriginal languages and report on the adequacy of federal funding of Aboriginal-languages initiatives.
 16. We call upon post-secondary institutions to create university and college degree and diploma programs in Aboriginal languages.
 17. We call upon all levels of government to enable residential school Survivors and their families to reclaim names changed by the residential school system by waiving administrative costs for a period of five years for the name-change process and the revision of official identity documents, such as birth certificates, passports, driver's licenses, health cards, status cards, and social insurance numbers.
- HEALTH**
18. We call upon the federal, provincial, territorial, and Aboriginal governments to acknowledge that the current state of Aboriginal health in Canada is a direct result of previous Canadian government policies, including residential schools, and to recognize and implement the health-care rights of Aboriginal people as identified in international law, constitutional law, and under the Treaties.
 19. We call upon the federal government, in consultation with Aboriginal peoples, to establish measurable goals to identify and close the gaps in health outcomes

between Aboriginal and non-Aboriginal communities, and to publish annual progress reports and assess long-term trends. Such efforts would focus on indicators such as: infant mortality, maternal health, suicide, mental health, addictions, life expectancy, birth rates, infant and child health issues, chronic diseases, illness and injury incidence, and the availability of appropriate health services.

20. In order to address the jurisdictional disputes concerning Aboriginal people who do not reside on reserves, we call upon the federal government to recognize, respect, and address the distinct health needs of the Métis, Inuit, and off-reserve Aboriginal peoples.
21. We call upon the federal government to provide sustainable funding for existing and new Aboriginal healing centres to address the physical, mental, emotional, and spiritual harms caused by residential schools, and to ensure that the funding of healing centres in Nunavut and the Northwest Territories is a priority.
22. We call upon those who can effect change within the Canadian health-care system to recognize the value of Aboriginal healing practices and use them in the treatment of Aboriginal patients in collaboration with Aboriginal healers and Elders where requested by Aboriginal patients.
23. We call upon all levels of government to:
 - i. Increase the number of Aboriginal professionals working in the health-care field.
 - ii. Ensure the retention of Aboriginal health-care providers in Aboriginal communities.
 - iii. Provide cultural competency training for all health-care professionals.
24. We call upon medical and nursing schools in Canada to require all students to take a course dealing with Aboriginal health issues, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, and Indigenous teachings and practices. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

JUSTICE

25. We call upon the federal government to establish a written policy that reaffirms the independence of the

Royal Canadian Mounted Police to investigate crimes in which the government has its own interest as a potential or real party in civil litigation.

26. We call upon the federal, provincial, and territorial governments to review and amend their respective statutes of limitations to ensure that they conform to the principle that governments and other entities cannot rely on limitation defences to defend legal actions of historical abuse brought by Aboriginal people.
27. We call upon the Federation of Law Societies of Canada to ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.
28. We call upon law schools in Canada to require all law students to take a course in Aboriginal people and the law, which includes the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.
29. We call upon the parties and, in particular, the federal government, to work collaboratively with plaintiffs not included in the Indian Residential Schools Settlement Agreement to have disputed legal issues determined expeditiously on an agreed set of facts.
30. We call upon federal, provincial, and territorial governments to commit to eliminating the overrepresentation of Aboriginal people in custody over the next decade, and to issue detailed annual reports that monitor and evaluate progress in doing so.
31. We call upon the federal, provincial, and territorial governments to provide sufficient and stable funding to implement and evaluate community sanctions that will provide realistic alternatives to imprisonment for Aboriginal offenders and respond to the underlying causes of offending.
32. We call upon the federal government to amend the Criminal Code to allow trial judges, upon giving reasons, to depart from mandatory minimum sentences and restrictions on the use of conditional sentences.

33. We call upon the federal, provincial, and territorial governments to recognize as a high priority the need to address and prevent Fetal Alcohol Spectrum Disorder (FASD), and to develop, in collaboration with Aboriginal people, FASD preventive programs that can be delivered in a culturally appropriate manner.
34. We call upon the governments of Canada, the provinces, and territories to undertake reforms to the criminal justice system to better address the needs of offenders with Fetal Alcohol Spectrum Disorder (FASD), including:
 - i. Providing increased community resources and powers for courts to ensure that FASD is properly diagnosed, and that appropriate community supports are in place for those with FASD.
 - ii. Enacting statutory exemptions from mandatory minimum sentences of imprisonment for offenders affected by FASD.
 - iii. Providing community, correctional, and parole resources to maximize the ability of people with FASD to live in the community.
 - iv. Adopting appropriate evaluation mechanisms to measure the effectiveness of such programs and ensure community safety.
35. We call upon the federal government to eliminate barriers to the creation of additional Aboriginal healing lodges within the federal correctional system.
36. We call upon the federal, provincial, and territorial governments to work with Aboriginal communities to provide culturally relevant services to inmates on issues such as substance abuse, family and domestic violence, and overcoming the experience of having been sexually abused.
37. We call upon the federal government to provide more supports for Aboriginal programming in halfway houses and parole services.
38. We call upon the federal, provincial, territorial, and Aboriginal governments to commit to eliminating the overrepresentation of Aboriginal youth in custody over the next decade.
39. We call upon the federal government to develop a national plan to collect and publish data on the criminal victimization of Aboriginal people, including data related to homicide and family violence victimization.
40. We call on all levels of government, in collaboration with Aboriginal people, to create adequately funded and accessible Aboriginal-specific victim programs and services with appropriate evaluation mechanisms.
41. We call upon the federal government, in consultation with Aboriginal organizations, to appoint a public inquiry into the causes of, and remedies for, the disproportionate victimization of Aboriginal women and girls. The inquiry's mandate would include:
 - i. Investigation into missing and murdered Aboriginal women and girls.
 - ii. Links to the intergenerational legacy of residential schools.
42. We call upon the federal, provincial, and territorial governments to commit to the recognition and implementation of Aboriginal justice systems in a manner consistent with the Treaty and Aboriginal rights of Aboriginal peoples, the *Constitution Act, 1982*, and the *United Nations Declaration on the Rights of Indigenous Peoples*, endorsed by Canada in November 2012.

Reconciliation

CANADIAN GOVERNMENTS AND THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLE

43. We call upon federal, provincial, territorial, and municipal governments to fully adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation.
44. We call upon the Government of Canada to develop a national action plan, strategies, and other concrete measures to achieve the goals of the *United Nations Declaration on the Rights of Indigenous Peoples*.

ROYAL PROCLAMATION AND COVENANT OF RECONCILIATION

45. We call upon the Government of Canada, on behalf of all Canadians, to jointly develop with Aboriginal peoples a Royal Proclamation of Reconciliation to be issued by the Crown. The proclamation would build on the Royal Proclamation of 1763 and the Treaty of Niagara of 1764, and reaffirm the nation-to-nation relationship between Aboriginal peoples and the Crown. The proclamation would include, but not be limited to, the following commitments:

- i. Repudiate concepts used to justify European sovereignty over Indigenous lands and peoples such as the Doctrine of Discovery and *terra nullius*.
 - ii. Adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation.
 - iii. Renew or establish Treaty relationships based on principles of mutual recognition, mutual respect, and shared responsibility for maintaining those relationships into the future.
 - iv. Reconcile Aboriginal and Crown constitutional and legal orders to ensure that Aboriginal peoples are full partners in Confederation, including the recognition and integration of Indigenous laws and legal traditions in negotiation and implementation processes involving Treaties, land claims, and other constructive agreements.
46. We call upon the parties to the Indian Residential Schools Settlement Agreement to develop and sign a Covenant of Reconciliation that would identify principles for working collaboratively to advance reconciliation in Canadian society, and that would include, but not be limited to:
- i. Reaffirmation of the parties' commitment to reconciliation.
 - ii. Repudiation of concepts used to justify European sovereignty over Indigenous lands and peoples, such as the Doctrine of Discovery and *terra nullius*, and the reformation of laws, governance structures, and policies within their respective institutions that continue to rely on such concepts.
 - iii. Full adoption and implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation.
 - iv. Support for the renewal or establishment of Treaty relationships based on principles of mutual recognition, mutual respect, and shared responsibility for maintaining those relationships into the future.
 - v. Enabling those excluded from the Settlement Agreement to sign onto the Covenant of Reconciliation.
 - vi. Enabling additional parties to sign onto the Covenant of Reconciliation.
47. We call upon federal, provincial, territorial, and municipal governments to repudiate concepts used to justify European sovereignty over Indigenous peoples and lands, such as the Doctrine of Discovery and *terra nullius*, and to reform those laws, government policies, and litigation strategies that continue to rely on such concepts.
- SETTLEMENT AGREEMENT PARTIES AND THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES**
48. We call upon the church parties to the Settlement Agreement, and all other faith groups and interfaith social justice groups in Canada who have not already done so, to formally adopt and comply with the principles, norms, and standards of the *United Nations Declaration on the Rights of Indigenous Peoples* as a framework for reconciliation. This would include, but not be limited to, the following commitments:
- i. Ensuring that their institutions, policies, programs, and practices comply with the *United Nations Declaration on the Rights of Indigenous Peoples*.
 - ii. Respecting Indigenous peoples' right to self-determination in spiritual matters, including the right to practise, develop, and teach their own spiritual and religious traditions, customs, and ceremonies, consistent with Article 12:1 of the *United Nations Declaration on the Rights of Indigenous Peoples*.
 - iii. Engaging in ongoing public dialogue and actions to support the *United Nations Declaration on the Rights of Indigenous Peoples*.
 - iv. Issuing a statement no later than March 31, 2016, from all religious denominations and faith groups, as to how they will implement the *United Nations Declaration on the Rights of Indigenous Peoples*.
49. We call upon all religious denominations and faith groups who have not already done so to repudiate concepts used to justify European sovereignty over Indigenous lands and peoples, such as the Doctrine of Discovery and *terra nullius*.
- EQUITY FOR ABORIGINAL PEOPLE IN THE LEGAL SYSTEM**
50. In keeping with the *United Nations Declaration on the Rights of Indigenous Peoples*, we call upon the federal government, in collaboration with Aboriginal organizations, to fund the establishment of Indigenous law institutes for the development, use, and

understanding of Indigenous laws and access to justice in accordance with the unique cultures of Aboriginal peoples in Canada.

51. We call upon the Government of Canada, as an obligation of its fiduciary responsibility, to develop a policy of transparency by publishing legal opinions it develops and upon which it acts or intends to act, in regard to the scope and extent of Aboriginal and Treaty rights.
 52. We call upon the Government of Canada, provincial and territorial governments, and the courts to adopt the following legal principles:
 - i. Aboriginal title claims are accepted once the Aboriginal claimant has established occupation over a particular territory at a particular point in time.
 - ii. Once Aboriginal title has been established, the burden of proving any limitation on any rights arising from the existence of that title shifts to the party asserting such a limitation.
- NATIONAL COUNCIL FOR RECONCILIATION**
53. We call upon the Parliament of Canada, in consultation and collaboration with Aboriginal peoples, to enact legislation to establish a National Council for Reconciliation. The legislation would establish the council as an independent, national, oversight body with membership jointly appointed by the Government of Canada and national Aboriginal organizations, and consisting of Aboriginal and non-Aboriginal members. Its mandate would include, but not be limited to, the following:
 - i. Monitor, evaluate, and report annually to Parliament and the people of Canada on the Government of Canada's post-apology progress on reconciliation to ensure that government accountability for reconciling the relationship between Aboriginal peoples and the Crown is maintained in the coming years.
 - ii. Monitor, evaluate, and report to Parliament and the people of Canada on reconciliation progress across all levels and sectors of Canadian society, including the implementation of the Truth and Reconciliation Commission of Canada's Calls to Action.
 - iii. Develop and implement a multi-year National Action Plan for Reconciliation, which includes research and policy development, public education programs, and resources.
 - iv. Promote public dialogue, public/private partnerships, and public initiatives for reconciliation.
 54. We call upon the Government of Canada to provide multi-year funding for the National Council for Reconciliation to ensure that it has the financial, human, and technical resources required to conduct its work, including the endowment of a National Reconciliation Trust to advance the cause of reconciliation.
 55. We call upon all levels of government to provide annual reports or any current data requested by the National Council for Reconciliation so that it can report on the progress towards reconciliation. The reports or data would include, but not be limited to:
 - i. The number of Aboriginal children—including Métis and Inuit children—in care, compared with non-Aboriginal children, the reasons for apprehension, and the total spending on preventive and care services by child-welfare agencies.
 - ii. Comparative funding for the education of First Nations children on and off reserves.
 - iii. The educational and income attainments of Aboriginal peoples in Canada compared with non-Aboriginal people.
 - iv. Progress on closing the gaps between Aboriginal and non-Aboriginal communities in a number of health indicators such as: infant mortality, maternal health, suicide, mental health, addictions, life expectancy, birth rates, infant and child health issues, chronic diseases, illness and injury incidence, and the availability of appropriate health services.
 - v. Progress on eliminating the overrepresentation of Aboriginal children in youth custody over the next decade.
 - vi. Progress on reducing the rate of criminal victimization of Aboriginal people, including data related to homicide and family violence victimization and other crimes.
 - vii. Progress on reducing the overrepresentation of Aboriginal people in the justice and correctional systems.
 56. We call upon the prime minister of Canada to formally respond to the report of the National Council for Reconciliation by issuing an annual “State of Aboriginal Peoples” report, which would outline the government’s plans for advancing the cause of reconciliation.

PROFESSIONAL DEVELOPMENT AND TRAINING FOR PUBLIC SERVANTS

57. We call upon federal, provincial, territorial, and municipal governments to provide education to public servants on the history of Aboriginal peoples, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

CHURCH APOLOGIES AND RECONCILIATION

58. We call upon the Pope to issue an apology to Survivors, their families, and communities for the Roman Catholic Church's role in the spiritual, cultural, emotional, physical, and sexual abuse of First Nations, Inuit, and Métis children in Catholic-run residential schools. We call for that apology to be similar to the 2010 apology issued to Irish victims of abuse and to occur within one year of the issuing of this Report and to be delivered by the Pope in Canada.

59. We call upon church parties to the Settlement Agreement to develop ongoing education strategies to ensure that their respective congregations learn about their church's role in colonization, the history and legacy of residential schools, and why apologies to former residential school students, their families, and communities were necessary.

60. We call upon leaders of the church parties to the Settlement Agreement and all other faiths, in collaboration with Indigenous spiritual leaders, Survivors, schools of theology, seminaries, and other religious training centres, to develop and teach curriculum for all student clergy, and all clergy and staff who work in Aboriginal communities, on the need to respect Indigenous spirituality in its own right, the history and legacy of residential schools and the roles of the church parties in that system, the history and legacy of religious conflict in Aboriginal families and communities, and the responsibility that churches have to mitigate such conflicts and prevent spiritual violence.

61. We call upon church parties to the Settlement Agreement, in collaboration with Survivors and representatives of Aboriginal organizations, to establish permanent funding to Aboriginal people for:

- Community-controlled healing and reconciliation projects.

- Community-controlled culture- and language-revitalization projects.
- Community-controlled education and relationship-building projects.
- Regional dialogues for Indigenous spiritual leaders and youth to discuss Indigenous spirituality, self-determination, and reconciliation.

EDUCATION FOR RECONCILIATION

62. We call upon the federal, provincial, and territorial governments, in consultation and collaboration with Survivors, Aboriginal peoples, and educators, to:

- Make age-appropriate curriculum on residential schools, Treaties, and Aboriginal peoples' historical and contemporary contributions to Canada a mandatory education requirement for Kindergarten to Grade Twelve students.
- Provide the necessary funding to post-secondary institutions to educate teachers on how to integrate Indigenous knowledge and teaching methods into classrooms.
- Provide the necessary funding to Aboriginal schools to utilize Indigenous knowledge and teaching methods in classrooms.
- Establish senior-level positions in government at the assistant deputy minister level or higher dedicated to Aboriginal content in education.
- We call upon the Council of Ministers of Education, Canada to maintain an annual commitment to Aboriginal education issues, including:
 - Developing and implementing Kindergarten to Grade Twelve curriculum and learning resources on Aboriginal peoples in Canadian history, and the history and legacy of residential schools.
 - Sharing information and best practices on teaching curriculum related to residential schools and Aboriginal history.
 - Building student capacity for intercultural understanding, empathy, and mutual respect.
 - Identifying teacher-training needs relating to the above.
- We call upon all levels of government that provide public funds to denominational schools to require such schools to provide an education on comparative religious studies, which must include a segment on

- Aboriginal spiritual beliefs and practices developed in collaboration with Aboriginal Elders.
65. We call upon the federal government, through the Social Sciences and Humanities Research Council, and in collaboration with Aboriginal peoples, post-secondary institutions and educators, and the National Centre for Truth and Reconciliation and its partner institutions, to establish a national research program with multi-year funding to advance understanding of reconciliation.
- YOUTH PROGRAMS**
66. We call upon the federal government to establish multi-year funding for community-based youth organizations to deliver programs on reconciliation, and establish a national network to share information and best practices.
- MUSEUMS AND ARCHIVES**
67. We call upon the federal government to provide funding to the Canadian Museums Association to undertake, in collaboration with Aboriginal peoples, a national review of museum policies and best practices to determine the level of compliance with the *United Nations Declaration on the Rights of Indigenous Peoples* and to make recommendations.
68. We call upon the federal government, in collaboration with Aboriginal peoples, and the Canadian Museums Association to mark the 150th anniversary of Canadian Confederation in 2017 by establishing a dedicated national funding program for commemoration projects on the theme of reconciliation.
69. We call upon Library and Archives Canada to:
- i. Fully adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* and the *United Nations Jóinez-Orientlicher Principles*, as related to Aboriginal peoples' inalienable right to know the truth about what happened and why, with regard to human rights violations committed against them in the residential schools.
 - ii. Ensure that its record holdings related to residential schools are accessible to the public.
 - iii. Commit more resources to its public education materials and programming on residential schools.
70. We call upon the federal government to provide funding to the Canadian Association of Archivists to undertake, in collaboration with Aboriginal peoples, a national review of archival policies and best practices to:
- i. Determine the level of compliance with the *United Nations Declaration on the Rights of Indigenous Peoples* and the *United Nations Jóinez-Orientlicher Principles*, as related to Aboriginal peoples' inalienable right to know the truth about what happened and why, with regard to human rights violations committed against them in the residential schools.
 - ii. Produce a report with recommendations for full implementation of these international mechanisms as a reconciliation framework for Canadian archives.
- MISSING CHILDREN AND BURIAL INFORMATION**
71. We call upon all chief coroners and provincial vital statistics agencies that have not provided to the Truth and Reconciliation Commission of Canada their records on the deaths of Aboriginal children in the care of residential school authorities to make these documents available to the National Centre for Truth and Reconciliation.
72. We call upon the federal government to allocate sufficient resources to the National Centre for Truth and Reconciliation to allow it to develop and maintain the National Residential School Student Death Register established by the Truth and Reconciliation Commission of Canada.
73. We call upon the federal government to work with churches, Aboriginal communities, and former residential school students to establish and maintain an online registry of residential school cemeteries, including, where possible, plot maps showing the location of deceased residential school children.
74. We call upon the federal government to work with the churches and Aboriginal community leaders to inform the families of children who died at residential schools of the child's burial location, and to respond to families' wishes for appropriate commemoration ceremonies and markers, and reburial in home communities where requested.
75. We call upon the federal government to work with provincial, territorial, and municipal governments, churches, Aboriginal communities, former residential school students, and current landowners to develop and implement strategies and procedures for the ongoing identification, documentation, maintenance, commemoration, and protection of residential school cemeteries or other sites at which residential school children were buried. This is to include the provision of

- appropriate memorial ceremonies and commemorative markers to honour the deceased children.
76. We call upon the parties engaged in the work of documenting, maintaining, commemorating, and protecting residential school cemeteries to adopt strategies in accordance with the following principles:
- The Aboriginal community most affected shall lead the development of such strategies.
 - Information shall be sought from residential school Survivors and other Knowledge Keepers in the development of such strategies.
 - Aboriginal protocols shall be respected before any potentially invasive technical inspection and investigation of a cemetery site.
- NATIONAL CENTRE FOR TRUTH AND RECONCILIATION**
77. We call upon provincial, territorial, municipal, and community archives to work collaboratively with the National Centre for Truth and Reconciliation to identify and collect copies of all records relevant to the history and legacy of the residential school system, and to provide these to the National Centre for Truth and Reconciliation.
78. We call upon the Government of Canada to commit to making a funding contribution of \$10 million over seven years to the National Centre for Truth and Reconciliation, plus an additional amount to assist communities to research and produce histories of their own residential school experience and their involvement in truth, healing, and reconciliation.
- COMMEMORATION**
79. We call upon the federal government, in collaboration with Survivors, Aboriginal organizations, and the arts community, to develop a reconciliation framework for Canadian heritage and commemoration. This would include, but not be limited to:
- Amending the Historic Sites and Monuments Act to include First Nations, Inuit, and Métis representation on the Historic Sites and Monuments Board of Canada and its Secretariat.
 - Revising the policies, criteria, and practices of the National Program of Historical Commemoration to integrate Indigenous history, heritage values, and memory practices into Canada's national heritage and history.
- iii. Developing and implementing a national heritage plan and strategy for commemorating residential school sites, the history and legacy of residential schools, and the contributions of Aboriginal peoples to Canada's history.
80. We call upon the federal government, in collaboration with Aboriginal peoples, to establish, as a statutory holiday, a National Day for Truth and Reconciliation to honour Survivors, their families, and communities, and ensure that public commemoration of the history and legacy of residential schools remains a vital component of the reconciliation process.
81. We call upon the federal government, in collaboration with Survivors and their organizations, and other parties to the Settlement Agreement, to commission and install a publicly accessible, highly visible, Residential Schools National Monument in the city of Ottawa to honour Survivors and all the children who were lost to their families and communities.
82. We call upon provincial and territorial governments, in collaboration with Survivors and their organizations, and other parties to the Settlement Agreement, to commission and install a publicly accessible, highly visible, Residential Schools Monument in each capital city to honour Survivors and all the children who were lost to their families and communities.
83. We call upon the Canada Council for the Arts to establish, as a funding priority, a strategy for Indigenous and non-Indigenous artists to undertake collaborative projects and produce works that contribute to the reconciliation process.
- MEDIA AND RECONCILIATION**
84. We call upon the federal government to restore and increase funding to the CBC/Radio-Canada, to enable Canada's national public broadcaster to support reconciliation, and be properly reflective of the diverse cultures, languages, and perspectives of Aboriginal peoples, including, but not limited to:
- Increasing Aboriginal programming, including Aboriginal-language speakers.
 - Increasing equitable access for Aboriginal peoples to jobs, leadership positions, and professional development opportunities within the organization.
 - Continuing to provide dedicated news coverage and online public information resources on issues of concern to Aboriginal peoples and all Canadians,

- including the history and legacy of residential schools and the reconciliation process.
85. We call upon the Aboriginal Peoples Television Network, as an independent non-profit broadcaster with programming by, for, and about Aboriginal peoples, to support reconciliation, including but not limited to:
- Continuing to provide leadership in programming and organizational culture that reflects the diverse cultures, languages, and perspectives of Aboriginal peoples.
 - Continuing to develop media initiatives that inform and educate the Canadian public, and connect Aboriginal and non-Aboriginal Canadians.
86. We call upon Canadian journalism programs and media schools to require education for all students on the history of Aboriginal peoples, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations.
- ### **SPORTS AND RECONCILIATION**
87. We call upon all levels of government, in collaboration with Aboriginal peoples, sports halls of fame, and other relevant organizations, to provide public education that tells the national story of Aboriginal athletes in history.
88. We call upon all levels of government to take action to ensure long-term Aboriginal athlete development and growth, and continued support for the North American Indigenous Games, including funding to host the games and for provincial and territorial team preparation and travel.
89. We call upon the federal government to amend the Physical Activity and Sport Act to support reconciliation by ensuring that policies to promote physical activity as a fundamental element of health and well-being, reduce barriers to sports participation, increase the pursuit of excellence in sport, and build capacity in the Canadian sport system, are inclusive of Aboriginal peoples.
90. We call upon the federal government to ensure that national sports policies, programs, and initiatives are inclusive of Aboriginal peoples, including, but not limited to, establishing:
- In collaboration with provincial and territorial governments, stable funding for, and access to, community sports programs that reflect the diverse cultures and traditional sporting activities of Aboriginal peoples.
 - An elite athlete development program for Aboriginal athletes.
 - Programs for coaches, trainers, and sports officials that are culturally relevant for Aboriginal peoples.
 - Anti-racism awareness and training programs.
91. We call upon the officials and host countries of international sporting events such as the Olympics, Pan Am, and Commonwealth games to ensure that Indigenous peoples' territorial protocols are respected, and local Indigenous communities are engaged in all aspects of planning and participating in such events.
- ### **BUSINESS AND RECONCILIATION**
92. We call upon the corporate sector in Canada to adopt the *United Nations Declaration on the Rights of Indigenous Peoples* as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources. This would include, but not be limited to, the following:
- Commit to meaningful consultation, building respectful relationships, and obtaining the free, prior, and informed consent of Indigenous peoples before proceeding with economic development projects.
 - Ensure that Aboriginal peoples have equitable access to jobs, training, and education opportunities in the corporate sector, and that Aboriginal communities gain long-term sustainable benefits from economic development projects.
 - Provide education for management and staff on the history of Aboriginal peoples, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills based training in intercultural competency, conflict resolution, human rights, and anti-racism.
- ### **NEWCOMERS TO CANADA**
93. We call upon the federal government, in collaboration with the national Aboriginal organizations, to revise the information kit for newcomers to Canada and its citizenship test to reflect a more inclusive history of the diverse Aboriginal peoples of Canada, including

information about the Treaties and the history of residential schools.

94. We call upon the Government of Canada to replace the Oath of Citizenship with the following:

I swear (or affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, Queen of Canada, Her Heirs and Successors, and that I will faithfully observe the laws of Canada including Treaties with Indigenous Peoples, and fulfill my duties as a Canadian citizen.

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“We Are All for Diversity, but . . .”: How Faculty Hiring Committees Reproduce Whiteness and Practical Suggestions for How They Can Change

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Despite stated commitments to diversity, predominantly White academic institutions still have not increased racial diversity among their faculty. In this article Robin DiAngelo and Özlem Sensoy focus on one entry point for doing so—the faculty hiring process. They analyze a typical faculty hiring scenario and identify the most common practices that block the hiring of diverse faculty and protect Whiteness and offer constructive alternative practices to guide hiring committees in their work to realize the institution’s commitment to diversity.

Keywords: Whiteness, university hiring, higher education, racism, diversity in academia

The reason we don’t have more faculty of color among college faculty is that we don’t want them. We simply don’t want them.

—Marybeth Gasman, “*The Five Things No One Will Tell You About Why Colleges Don’t Hire More Faculty of Color*”

As university workers, we find ourselves in a critical social moment. We are in the midst of the Black Lives Matter movement and global student protests (in Chile, South Africa, and Taiwan, among other countries) against government austerity and authoritarian state structures, the 2017 protests led by Indige-

nous students against Canadian celebrations of 150 years of the colonial state, and the high-profile 2015 resignations of the University of Missouri's president and chancellor over racial tensions they could not manage. The deep racial divides exposed by the 2016 election in the United States and the subsequent rise in hate crimes on campuses illustrate that racism has been and will continue to be a central issue in higher education. It is no longer justifiable for academia to remain racially illiterate. Interviews with student protesters repeatedly show that a key demand is increased racial diversity among the faculty and racial literacy among the White faculty (We The Protestors, 2015; Chessman & Wayt, 2016). These calls are not new; generations of activism and scholarship have reiterated the demand to diversify and decolonize predominantly White university campuses (Kayes, 2006; Smith, Turner, Osei-Kofi, & Richards, 2004). Yet, while most universities have responded with declarations of "valuing diversity," and some with pledges and specialized programs, why have they overwhelmingly still not achieved these goals?

While racial diversity among students has increased, faculty diversity has not. In the fall of 2013, among full-time professors in the United States, 84 percent were White (58 percent males and 26 percent females), 4 percent Black, 3 percent Hispanic, and 9 percent Asian/Pacific Islander. Making up less than 1 percent each were professors who were American Indian/Alaska Native and of two or more races (NCES, 2015). Similarly, in a comprehensive diversity accounting of Canadian universities made public in 2016, Malinda Smith and colleagues (AWA, 2016a) report that despite two-plus decades of equity policies, the Canadian university professoriate remains overwhelmingly White (81 percent) and male (66 percent). The numbers are even more bleak as one looks *up* the ladder of university leadership: 73 percent of universities have all-White leadership teams, and "in 2016, not a single university had a visible minority woman, or Aboriginal man or woman on their presidential leadership teams" (AWA, 2016b, para. 4).

At the same time, position calls that "encourage" and "invite" underrepresented groups and especially visible minority applicants are ubiquitous. In Canada, publicly funded universities have a legal obligation through the Employment Equity Act to include statements that demonstrate their commitment to equitable hiring practices. In the United States, federal law requires equal opportunity and reasonable accommodation. Yet, in the face of these legal and stated commitments to diversity, the above statistics speak to the urgent need for predominantly White academic institutions to identify the persistent barriers that prevent greater racial diversity among their faculty and to develop strategies to address them. In this article we focus on one such entry point: the faculty hiring process.

We argue that through a range of discursive moves, hiring committees protect rather than unsettle Whiteness. In so doing, they actively close the gates against racial diversity (CAUT, 2010; Gutiérrez y Muhs, Nieman, González,

& Harris, 2012; Henry et al., 2017; Matthews, 2016; Ng, 1993; Schick, 2000). These moves include the so-called objective scrutiny of applicant CVs, the discourse of "fit," the token committee member, the additive nature of diversity-related interview questions, and the acceptability of candidate ignorance on issues of race/gender. By analyzing these elements, we offer a thematic examination of both well-meaning and outright obstructionist actions that block efforts to increase racial diversity within the academic labor force.

We explicate these familiar moves and also reflect on our own efforts to increase faculty diversity as White women who have served on numerous university hiring committees in both Canadian and US contexts (Sensoy & DiAngelo, 2009). While we are situated within the field of education, these dynamics have been documented across these national borders and in a range of disciplines, including education, law, humanities, social sciences, and nursing (Beard & Julion, 2016; Henry, 2015; Henry et al., 2017; Smith et al., 2004; Vick & Furlong, 2012; Ware, 2000). Drawing from this research and the generous mentorship of colleagues of color and our own struggles to advance racial equity in our spheres of influence, we speak explicitly to our fellow White colleagues who serve on these committees and offer strategies that might authentically open the gates to greater faculty diversity.

We are White academics whose work is indebted to the generations of scholarship on race by Indigenous scholars and scholars of color. In addition to this academic foundation, we have benefited from the personal mentorship of many colleagues of color and Indigenous colleagues. While we centralize the example of race in our discussion, we do so using an intersectional race analysis. At times, we use *race* interchangeably with the common institutional language of *diversity*. In isolating race (to the exclusion of intersectional identities, for example), we do not intend to minimize the importance of gender, sexuality, class, or ability on how people experience racialization. Nor do we intend to make invisible the history of White settler society that has erased Indigenous bodies for generations (Barker, 2009; Razack, 2002; Wolfe, 2006). For both brevity and accessibility, we use race as a familiar entry point for predominantly White institutions to begin to problematize a range of unnamed and exclusionary institutional practices. We recognize that we may seem at times to be essentializing racial categories. But our objective is not to reify these categories but to make common racial patterns and assumptions visible in an accessible way.

Whiteness in Higher Education

Ruth Frankenberg (1997) describes Whiteness as multidimensional: "Whiteness is a location of structural advantage, of race privilege. Second, it is a 'standpoint,' a place from which white people look at ourselves, at others, and at society. Third, 'whiteness' refers to a set of cultural practices that are usu-

ally unmarked and unnamed” (p. 1). Thus, to name Whiteness is to refer to a set of relations that are historically, socially, politically, and culturally produced and intrinsically linked to dynamic relations of White racial domination (Frankenberg, 1997; Roediger, 2007). In other words, Whiteness is deeply embedded in sociocultural practices, and disentangling Whiteness from these practices requires a multifaceted approach.

As Eduardo Bonilla-Silva (2015) explains, White-oriented and -led institutions reproduce Whiteness through their curriculum, culture, demography, symbols, and traditions, while they simultaneously pass as neutral spaces free of race and racialized perspectives. Only peoples of color are racialized and seen as “bringing” race into race-neutral (White) spaces. If there are no peoples of color present, race remains unnamed and is not presumed to be an organizing institutional factor. Bonilla-Silva surfaces this normative invisibility through his deliberate naming of non-Historically Black Colleges and Universities (HBCUs) as Historically *White* Colleges and Universities (HWCUs). He terms this normative invisibility “the white racial innocence game” in which Whites claim to have no racial knowledge and therefore no awareness of the structures of racism that reproduce White advantage. Similarly, Indigenous scholar Susan Dion (2009) refers to the stance of “perfect stranger,” wherein White teachers claim a racial innocence about Indigenous peoples despite having received a lifetime of formal and informal pedagogy on the stereotypical “imaginary Indian” (p. 330).

HWCUs have, for decades, articulated a desire for integration and lamented the difficulty of achieving that goal (Gasman, 2016). Yet these lamentations do not address Whiteness itself as a fundamental barrier to integration (or to racial equity, which goes far beyond mere integration). As Sara Ahmed (2012), Bryan Brayboy (2003), Eduardo Bonilla-Silva (2012), Frances Henry and colleagues (2017), and others have explained, for many White/settler-colonial institutions, the implementation of university-wide diversity initiatives and policies are problematic for at least three reasons. First, they tend to view diversity as a stand-alone policy that is conceptualized as the adding of students or faculty of color to the existing makeup of the institution and do not address the fundamental Whiteness of the university’s policies and practices. Second, the conceptualization and implementation of diversity initiatives in this manner nearly always add workload to the most junior faculty of color and the few numbers of senior faculty of color who can mentor them. Third, diversity initiatives render their underlying logic of Whiteness invisible and thus normalize the everyday discourses that racialize only faculty of color. In these ways, the everyday “grammar of whiteness” (Bonilla-Silva, 2012) remains unaddressed.

Additionally, the labor of diversity work is often devalued at the highest-tier institutions, where research in the form of peer-reviewed journal publications and the acquisition of grant monies are the long-standing barometers of the most-valued work driving salary and career progression. In this context, fac-

ulty of color are positioned at the frontlines of implementing HWCUs' diversity policies, since they are seen as "the face" of these initiatives and are often among the few who understand the stakes associated with them (Henry et al., 2017). They are expected to do this work in spite of deep White resistance and at a cost to their own research programs. Further, they must make the diversity work palatable for White colleagues when even pressure to attend a stand-alone diversity workshop is a cause for animosity. If a stand-alone session names White advantage and challenges presumed White racial neutrality, the backlash of White fragility often ensues. DiAngelo (2011) defines *White fragility* as the result of the White subject position—moving through a wholly racialized world with an unracialized identity (e.g., White people can represent all of humanity, people of color can only represent their racial selves). She argues that White people

are centered in all matters deemed normal, universal, benign, neutral and good. Challenges to this identity become highly stressful and even intolerable. Not often encountering these challenges, we withdraw, defend, cry, argue, minimize, ignore, and in other ways push back to regain our racial position and equilibrium. (p. 57)

Thus, for colleagues of color, in addition to the diversity work itself, they must also navigate the emotional landmines of White fragility so often triggered in response to diversity work.

Another unnamed logic of Whiteness is the presumed neutrality of White European enlightenment epistemology. The modern university—in its knowledge generation, research, and social and material sciences and with its "experts" and its privileging of particular forms of knowledge over others (e.g., written over oral, history over memory, rationalism over wisdom)—has played a key role in the spreading of colonial empire. In this way, the university has validated and elevated positivistic, White Eurocentric knowledge over non-White, Indigenous, and non-European knowledges (Battiste, Bell, & Findlay, 2002; Carvalho & Flórez-Flórez, 2014; Grosfoguel, Hernández, & Velásques, 2016; Mignolo, 2002). These knowledge forms "inscribed a conceptualization of knowledge to a geopolitical space (Western Europe) and erased the possibility of even thinking about a conceptualization and distribution of knowledge 'emanating' from other local histories (China, India, Islam, etc.)" (Grosfoguel et al., 2016, p. 59). The decolonization of the academy requires, at minimum, an interrogation of not only the disciplinary fields and their borders but also the everyday commonsense practices of the institution itself.

In what follows, we analyze a typical faculty hiring scenario. While there may be slight variations in the process (depending on discipline and teaching versus research-intensive campus), the core elements of the job search are predictable and stable (Perlmutter, 2017; Vick & Furlong, 2012). We focus on illustrative practices that serve to block greater diversification of academic units and thereby protect the inherent Whiteness of HWCUs.

The Steps of the Hire

When the people in power receive a mandate to search out excellence, the first place they look is to people like themselves, and too often that is also where the search ends.

—*Gabriella Gutiérrez y Muhs et al., Presumed Incompetent*

Step 1: The Job Description

Tenure-Track Position in Elementary Education

Primary responsibilities will include teaching elementary-level teacher preparation courses and other teacher education courses as needed by the unit. Required qualifications include PhD or EdD in Curriculum and Instruction or another closely related field, demonstrated excellence in teaching, and experience teaching in grades 1–6. The ideal candidate will be adept in the use of instructional technology, be familiar with state teacher preparation standards, and be interested in joining a campus community that promotes diversity, respect, and inclusion.

In mainstream thought, it is people of color who “have” race (are *racialized*) and whose identities are hyphenated and marked (e.g., Black Canadian, Chinese American) as compared to “regular” (White settler) identities that remain unnamed (e.g., you don’t see White American or Scottish Canadian). Thus, one of the most powerful actions an academic unit can take up when beginning a hiring process is to *mark* the invisible aspects of dominance that are embedded yet go unnamed in the position description. The field into which a new hire is proposed is never neutral. Therefore, a call for a general position in any field is not possible. While an open job description may allow for a wider range of candidates, it also reinforces the idea that some aspects of the job are core, foundational, and thus presumed neutral, while other aspects are additional, extra, and specialized. Because specializations are necessarily more focused, they can also seem narrower and limited.

The default of privileging a presumed neutral generalist will position them as able to teach more courses in the program; we presume that candidate Bob, as a generalist elementary education graduate, can “hit the ground running” and teach several of the courses we need covering, while candidate Ali, a multiculturalist, would be great for our required diversity course but not for the general elementary education courses (such as Classroom Management or Assessment). The failure to acknowledge that everything we teach is from a particular disciplinary perspective positions Bob as a generalist and Ali as a narrow specialist. Further, it disavows the extensive work a specialist undertakes. Consider a medical analogy: a neurologist will have undergone similar training as a general practitioner as well as further study and specialization in neurology.

Whenever diversity is an add-on, we normalize Whiteness rather than diversity. Curriculum, instruction, or elementary teaching are not neutral fields free of political agendas. And when there is no signal that those who wrote the job description recognize this, the message conveyed is that of the status quo. The institution is thus missing its first opportunity to recruit from the small handful of newly minted scholars who could support the institution in reaching the goals it claims to value.

— Constructive Alternatives

Most traditional fields are based on old classifications and, as such, reproduce the status quo. For example, the field of multicultural education grew out of the traditional social studies field (Banks, 1993). Be forward thinking in how the disciplines have evolved and reclassify the position to demonstrate that understanding this evolution is central to the position.

Consider the following issues when writing the job description:

- *Operationalize diversity.* If the job announcement states that yours is a campus that “promotes diversity,” the committee needs to set clear targets by operationalizing the term. For example, decide what explicit evidence you will use to determine that the candidate has promoted (rather than simply values) diversity. Consider diversity in terms of numbers (e.g., who is and is not there) and as an integrated perspective (more than an opinion or feeling). Ask those with specific expertise to give their thoughts on the job description and to incorporate their ideas. If the committee cannot operationalize diversity, don’t use it in the job announcement.
- *Politicize traditional canonic fields.* Incorporate language into every job description that signals a critical paradigm to traditional canons. For example, “Candidates must demonstrate an ability to situate knowledge in their field in a social (cultural, historical) context” (e.g., must be able to speak to how knowledge is validated and institutionalized in their field).
- *Avoid coded language.* Avoid language that signals an uncritical ideological paradigm, such as “urban,” “inner city,” “disadvantaged,” or racializes all students (e.g., “Candidates are expected to explain the role of mathematical thinking in the lived race and class experiences of elementary students as well as in the teacher and school staff in the region. For example, the impact of White settler colonialism on Vancouver’s racialized and Coast Salish communities, or Seattle’s racialized and Duwamish communities”).
- *Understand that dominant groups are always overrepresented in body and/or in ideology, particularly in disciplines seen as nonpolitical.* Given that the default of most HWCUs is an overrepresentation of the dominant groups (e.g., Whites, White men [especially at higher ranks], native English speakers, nondisabled peoples), use every job description as an opportunity to name and correct the imbalance.

Step 2: The Committee Composition

Imagine two committees:

- *Committee 1.* Head of academic unit makes an announcement in the faculty meeting: “We have a new generalist line open in elementary education and need to put the committee together. In addition to those on the standing committee, we will need at least two additional volunteers from the faculty at large. At least one of the volunteers needs to be a generalist. Who would like to volunteer?”
- *Committee 2.* Head of academic unit approaches faculty member with expertise in diversity and says: “We have a new generalist line open in elementary education and need to put the committee together. I am asking you as a member of our faculty with expertise in diversity to head this process. If you are unable to, whom do you recommend I speak with?”

Which one of these approaches to the committee’s composition is biased?

They both are. Despite the appearance of neutrality and an open system of participation by all members of the faculty, the first one will continue to reproduce the same outcomes because it does not *intentionally* act to disrupt them. Given that little progress has been made in terms of faculty diversity in many decades, interrupting status quo procedures is a critical entry point for challenging the reproduction of inequity. This includes unexamined assumptions when putting hiring committees together.

Most university committees would say they try for balance on working groups. However, balance as a working concept is often not adequately problematized. It must be contextualized. When baking, for example, a baker must balance the ratio of wet to dry ingredients. This balance is not fixed for all cases; the wet-to-dry ratio will be different if the desired outcome are pancakes versus bread. Thus, the desired outcome determines what is needed to achieve balance. Similarly, when universities strive for committees that are balanced in terms of diversity, they must consider a different set of parameters than simple equal numbers of tenured versus pretenure faculty, faculty versus students, people of color versus White people. If the organization has stated a desire to recruit and retain a faculty complement that reflects the diversity of the student body or local community, committee membership needs to reflect who can best assess a candidate’s contributions to that goal.

Common committee formulas include senior administrative leaders, a subject-matter expert or two, and newer tenure-track members of the faculty. Because this is how hiring committees are typically put together in many academic units, we may assume that it is a proven successful process and that we can trust the good intentions of our peers to use their best judgments and bring forward the most qualified candidates. But as evidenced by our outcomes, these assumptions are false. Whether a department takes volunteers or votes members in, when a predetermined formula generated by the institution is used, the default is the reproduction of power; such formulas were

not originally constructed to address diversity and thus cannot be relied on to achieve diversity.

As the pressure to diversify faculty has increased, the response has often been to ensure that a person of color serves on the hiring committee. Given the demographics at most institution, there are typically one or two colleagues who are repeatedly tapped to provide “diversity cover” (Henry, 2015; Sensoy & DiAngelo, 2009). In addition to being tokenized and overworked, members of color must also deal with ongoing microaggressions (Sue, 2010) in the deliberation process and White fragility should they resist. If the racial perspective the “token” member is asked to provide is in conflict with the desires of the White members, it is most often dismissed (Henry et al., 2017). The token member eventually refuses to endure any more committees (and is seen as “difficult”) or, and especially if pretenure, learns to go along to get along (which guarantees that they will continue to be tapped to provide cover rather than critique).

The following dynamics are common and problematic:

- Members (except for token members) are presumed to be objective and neutral (well-intentioned = objective = supportive of a “balanced” approach to diversity).
- By positioning the token member as the one to bring the racial perspective, that member is continually racialized.
- The token member is presumed to have expertise on race and racial issues (such as racism, tracking, profiling), but *only* on these issues.
- White members do not recognize that the burden on this token member to bring race perspective is occurring in a hostile (White) workplace.
- The White assumption of a universal experience is that if the committee (or indeed, the academic unit) feels welcoming to the White members, it must feel equally welcoming to everyone.
- If the token member actually does call out the racism in a discussion, they are often met with resistance and dismissal.

— Constructive Alternatives

When putting together the committee, consider the following:

- *Think about committee balance in terms of bodies as well as perspectives.* If your institution has the numbers, ensure that the search committee tilts to redress the racial imbalance by having members of color as the majority and, especially, in senior roles on the committee. Ensure that the colleagues who are asked to serve—including White colleagues—bring expertise in racial equity. If your department is predominantly White and no members have racial equity expertise, invite faculty members with expertise from affiliated departments to serve.
- *Develop a response to stand by decisions that will be read by some faculty as biased.* Remind faculty that for generations the department was mostly White and

male and that those members hired the first groups who set up the culture and curriculum. Be prepared to clearly articulate how your committee composition today is in line with the institution's professed diversity goals.

- *Don't underestimate the role of the committee chair.* Make sure the person in charge has the critical understanding necessary to evaluate diversity-related questions and can advance the work of the committee with diversity as a central project. The chair should have the facilitation skills needed to redirect problematic tangents and arguments against diversity during committee discussions. Be sure that the chair will be able to present a strong case of recommendation to the power structure. If not, be firm and consider a different chair.
- *Draw on expertise in your faculty and account for their extra service load.* Recognize diversity service by increasing release time. Ensure that those assessing job applicants have a demonstrated critical understanding of, not just a "belief in" or "commitment to," diversity. Use measures such as committee members' published work, research projects, community involvement, and professional development efforts as specific evidence of their commitment and expertise, rather than their warmth, friendliness, professed interest in the issues, or international travels.

Step 3: The "Objective" Scrutiny of the CV

As chair, in preparation for our discussion, I have gone through the applicant CVs and created a table of candidates' publications in terms of numbers, quality of journals, and grant monies. This will help us compare the candidates on fair grounds.

This vignette is based on an actual experience one of us had on a hiring committee. The committee chair (a White male) prepared for the shortlisting meeting by creating an elaborate template that he saw as an impartial frame, presuming that evaluating according to the same criteria equaled evaluating fairly.

Education researchers have extensively problematized the standardized approach to assessing students (Darling-Hammond, 2014; Darling-Hammond, Ancess, & Falk, 1995; Kohn, 2000; Oakes, 2005). Further, beyond the assessment of students, assessments by students of their courses and professors shift predictably along group-based lines: (cis) male professors are rated more positively than (cis) female, White professors are rated more positively than professors of color, and courses that address privilege and racism are rated more negatively (Deo, 2015; Gutiérrez y Muhs et al., 2012; Ladson-Billings, 1996; Nast, 1999; Sensoy & DiAngelo, 2014). Further, research on implicit bias (Jones, Peddie, Gilrane, King, & Gray, 2013; Jost et al., 2009) shows that there is a large-scale social belief that peoples of color are inherently less qualified, yet implicit bias and its impact on an applicant's materials (such as teaching evaluations) are rarely ever addressed by hiring committees.

This research shows that the qualifications of candidates of color are often overscrutinized—for example, *Why are their student evaluations so poor? Why are there so few grants acquired for their research?* At the same time, many contributions are undervalued—for example, the extra workload that faculty of color typically take on is not “countable” on the CV. This includes mentoring students of color and/or helping them navigate HWCUs, supporting student activist organizations and community groups (e.g., Muslim Students Association, Black Lives Matter chapter), mentoring junior faculty, and consulting with administrators on issues pertaining to particular minoritized populations. Further, candidates of color and Indigenous candidates are often asked to bear additional high-stakes responsibilities—for example, *Can you serve on the vice president's advisory committee for the new Aboriginal Students Services Center? Could you consult with the president on his Asian Heritage Month speaker series? The department received a request for a speaker from the Aga Khan Community Leadership group, and the chair recommended they contact you.* The pressure to accept these responsibilities is intense, because if a candidate does not agree to take them up, it is likely that the important work won’t be done—or won’t be done thoughtfully. All of this shadow work draws on the personal, lived, and academic expertise of scholars of color and other marginalized scholars, yet it seldom counts (or counts very little) toward career progression. Conversely, the absence of these skills and experiences are not viewed as deficits on White applicants’ profiles, as their capacity to contribute to this type of service work is rarely seen to be essential.

— Constructive Alternatives

Think through the following when reviewing candidate CVs:

- *No CV is race-neutral.* Is the committee tending to neutralize the CV of candidates who do not address race and to racialize those who do? For example, committees may begin to talk about the candidate of color as being an expert on “urban” issues rather than a “general” elementary education person (*We need someone who can teach and supervise our students on a range of elementary education topics, not just race*).
- *Count input, not just output, in research.* Is the committee counting only candidates’ output (the number of publications) and not input (the time it takes to build the relationships that grant access)? Some forms of traditional cultural knowledge are exceedingly challenging to obtain, and some are against cultural rules to disclose to outsiders, and doing so could lose the researcher future access. Consider what other evidence might be considered, such as relationships with communities and activism/advocacy work, and ask for this type of evidence to be included with the application materials for all candidates.
- *Count multilingualism as a strength, not a barrier.* Are discussions about whether or not a particular committee member can understand the speaker allowed

to distract from the content? If monolingual committee members are having trouble understanding accented English, that should be considered a deficit on the part of the monolinguist, not the speaker.

- *Be aware that not all publications appear in Western indexes.* Does our assessment of publications consider the languages in which the candidate publishes? Recognize, for example, that international journals may not be indexed in your university's library.
- *Expect evidence of diversity literacy from every applicant, regardless of the field.* Is every candidate able to demonstrate a degree of diversity literacy? Consider what coursework candidates have taken. What are they writing about and who are they citing? In the context of racialized candidates, the playing field is not level, so seek criteria to include these candidates rather than eliminate them. *Take as long as necessary to get it right.* If you did not get candidates who could further your racial equity goals, why didn't you do well enough to attract them? If you had diverse candidates in the pool but did not shortlist them, why not? If your long list does not include minoritized candidates, consider it a failed list and be willing to start over.

Step 4: The Interview

Interview Schedule for Dr. V. L. Stone Elementary Education Position

Tuesday, April 7

<i>6:00–8:00 pm</i>	<i>Dinner with Drs. D. Waterson and P. Lawrence Rainy City Brewing Co. Pub and Restaurant</i>
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Wednesday, April 8

<i>8:30–9:30 am</i>	<i>Continental breakfast with dept heads (Robert Johnson Hall, Rm 110)</i>
<i>10:00–11:30 am</i>	<i>Research presentation to faculty (RJH, Rm 112)</i>
<i>12:00–1:30 pm</i>	<i>Lunch with committee members (Faculty Club)</i>
<i>1:30–3:00 pm</i>	<i>Interview with full committee (RJH, Rm 112)</i>
<i>3:15–3:45 pm</i>	<i>Meeting with Dean Swenson (RJH, Dean's Suite)</i>

The seemingly neutral layout of a typical campus visit should be considered more critically, as it serves as the most intensive interaction between a candidate and the institutional committee. In this way, it is important to consider the concept of embodiment and how it shapes all institutional interactions.

Racial power manifests institutionally, but it is also inscribed on bodies themselves. While we often acknowledge race in the bodies of racialized others—particularly when it is perceived as a commodity that we want or need—we do not often see how Whiteness, too, is embodied by a hiring committee or how it bears on racialized others who interact with the committee. Herein lies a dilemma. To continually mark the bodies of some candidates as *diverse*

(as we too have done in this essay) is to reify the normative power inscribed on the bodies perceived as White. While there is not currently a way around this dilemma, it can at least be diminished with attention and consciousness. One of the dynamics we can attend to is how the diverse candidate's embodiment implicitly raises both doubts and expectations for the committee; doubts about whether or not the candidate can be a person of color and also be a generalist who won't "just" be interested in race issues and expectations that the candidate can function as a representative of the diversity the campus claims to desire. These doubts and expectations are present in the candidate's interactions with the committee, whether the committee is explicitly aware of them or not.

In addition to performing well during all parts of the interview, candidates of color must also navigate the default conditions of White normativity within the HWCU institution at large. Along with the conditions of White normativity, they also have the parallel track of their racialized experiences to attend to as they prepare for the day, what W. E. B. DuBois (1903) termed "double consciousness." For example, *Is the campus in a city or a small town? Will I be safe after hours there? Will I encounter any other peoples of color (or otherwise minoritized peoples)? What microaggressions will I face and how do I stay focused in spite of them? Do I speak openly and honestly about my work on race? Do I talk about how my identity shapes my work?* Against this backdrop, well-meaning advice by a committee member to "just be yourself" does not alleviate the multilayered stress a candidate of color may feel. Indeed, it can actually increase that stress because it reveals how little the well-meaning committee member understands racial dynamics. Our point here is not that hosts should be so careful as to be distant and reserved, but that committees need to recognize their own embodiment as well as each candidate's and understand that every interaction occurs within a sociocultural and political context, no matter how benign it may appear.

While many candidates of color have a great deal of professional experience navigating White dominant spaces, a primarily White department still has an impact on their interview experience. Every question conveys information to the candidate about the department's consciousness, or lack thereof. In a HWCU, a candidate who is of color but does not challenge racism and Whiteness will more likely be seen as an asset, as unbiased and relatable (Ahmed, 2012; Henry et. al, 2017). The committee will presume that such a candidate can "help" with diversity initiatives and will do so as a team player, not "pushing race" or "seeing racism/racists everywhere." In these ways the candidate will be implicitly racialized, while at the same time positioned as unbiased and "naturally" competent on issues of diversity.

Conversely, a racialized candidate who also conducts diversity-related research must manage the committee's perception that they have a single-focus expertise, which may present in such questions as: *This is great, but how will you teach all the other students? How does this relate to other students?*

— The Diversity Question

Some institutions have a bank of questions for committees to choose from. These questions may not address racial diversity at all, leaving it up to the committee to include the discussion. The add-on nature of these questions, and that they are so often optional and thus not included at all, communicates that the capacity to understand oneself in relation to their sociopolitical context is not central to the department. When a question *is* asked, it is typically something like *How do you manage diversity in your courses? How do you support diversity, respect, and inclusion in your classes? How do you work with diverse students?* Yet these questions proceed from the unmarked norm of Whiteness. They do so through their presumption that the White candidate is neutral, that diversity exists outside of oneself, and that difference is something that should or could be controlled and managed. These questions also do not account for the dynamics of unequal power relations embedded in the classroom and the institution at large.

Some of the responses we have heard from candidates to these types of uncritical questions are:

I taught in a rough inner-city school/tribal school.

My wife is Thai.

I consulted in Baghdad.

I'm a minority myself; I am a ____.

I grew up in a small town, so I understand the need to feel included.

I taught English in China for two years so I understand feeling excluded.

These answers proceed from the unmarked norm of Whiteness in their presumption that simply being near peoples of color, holding fond regard across race, experiencing marginalization in another axis of difference, or any experience of difference at all can result in constructive interventions against oppression. They also function to exempt one from complicity in systems of oppression or the further need for critical engagement.

A candidate's race plays a powerful role in how they are held accountable to engage with complexity and nuance in arguably the most complex and nuanced social problem of our time: race relations. While candidates of color are expected to be able to speak to this topic, White candidates (and White men in particular) are not only permitted ignorance but can openly profess ignorance and still be seen by an uncritical committee as honest, even charming, but certainly not unqualified (Gutiérrez y Muhs et al., 2012). In a classic example of the lack of institutional accountability for faculty diversity, an advice column in the *Chronicle of Higher Education* explained how to answer the diversity question without acknowledging that there are conditions under which a candidate might be unqualified to answer (Utz, 2017). To offer tips that presume that anyone can "pass" the diversity question with just a little preparation gained from an advice-style column reinforces the lack of insti-

tutional accountability to diversity. It also relieves the hiring committee of accountability to its institution's professed commitment to diversity; it doesn't have to see a candidate's inability to speak with nuance and complexity to this issue as reason for disqualification or endure the discomfort of standing behind the decision to disqualify a candidate based on that inability. In our experience, a candidate's response to a question on diversity has never been the determining factor in the decision. In this way, these questions simply function as cover for the committee and the institution itself, as they are rarely taken seriously. (One of us was present at an interview when a diversity-themed question was asked and two of the White male members of the committee chose that moment to get up and refill their coffee cups, while a third opened his laptop to check e-mail.)

— Constructive Alternatives

While our ads and public narratives (such as mission/vision statements) may tell candidates that our institutions are critically conscious, institutions rarely show this consciousness in action. The interview is an opportunity to do so. While most of us sitting at the hiring table will be White, if we have a critical consciousness, we are better equipped to create a welcoming and affirming climate for underrepresented candidates. If we do not have a critical consciousness, we are less likely to recruit (or retain) these candidates. So what shape are we in? If we state that we want candidates with experience in urban schools, the committee should know how to assess this experience. Again, we must be prepared to expect accountability. This means that if a committee member is not able to assess answers to diversity questions as strong or weak, then that member is simply not qualified to serve on a hiring committee at an institution that professes diversity as a core value and mission.

To be more responsive to these dynamics, consider strategies such as the following:

- *Integrate diversity into every question in a meaningful way.* In turn, listen closely for complexity and nuance, critical reflection, humility, and self-awareness. Ask follow-up questions and hold high expectations. In so doing, it is communicated from the start that the issues are taken seriously and that faculty will be held accountable to these values. Some questions might be:

What are some of the techniques you use to teach in a culturally responsive way?

Can you trace the history and key politics of your field? How has it responded to calls to move away from "great white men" and toward more inclusive/diverse scholarship?

You are asked to teach a general Elementary Teaching course. Who are the five to ten authors the students must read, and why? [Listen for diversity of authors in each candidate's response.]

How do you recruit and support racially diverse graduate students?

What success have you had? Challenges?

What role models are there in your field for nontraditional students (e.g., female students, LGBTQ+ students, Indigenous students, students of color, and students with disabilities)?

More and more students are demanding faculty accountability on issues of race and equity. How have you responded? What areas of growth do you see for yourself?

A group of students comes to you and says that there is racial inequity in the classroom's dynamics. How might you respond to its concerns?

- *View less formalized parts of the day as further opportunities to communicate your diversity literacy.* For example, have you asked about dietary restrictions? Is your interview occurring during an important period of faith (e.g., Ramadan, Yom Kippur)? Has there been an acknowledgment of unceded Indigenous territories to start the day and meaningful address of local protocols? What consideration has been given to accessibility within a potentially noisy space (such as a pub or large cafeteria) for candidates who might be hard of hearing, or have mobility limitations?
- *Consider which students you put in front of which candidates.* Because our field is multicultural education, during the interview process we are consistently put in front of the students-of-color groups and other activist groups on campus. Are these same student groups invited to meet candidates for all positions? If not, why? For example, consider having the elementary education candidate meet with activist students on your campus; the candidate would be pressed to demonstrate that they understood the historical impact of their field on marginalized peoples and the impact of that history on children in schools today.
- *Challenge your response to affect.* The affects (body language, facial expression, tone) that are traditionally read as neutral or friendly are de facto White cultural norms. These norms shape both how a predominantly White committee will be read as well as how that committee will read the candidates. Because the affect of White candidates will more easily match the expectations of a predominantly White committee, this candidate will appear to be a better fit over a candidate of color who might be presenting a different affect. Educate yourself on the power of implicit bias and ways to ameliorate it. Consider whether your response to a candidate is based on descriptive observations ("He didn't smile") versus evaluations ("He's not a team player"). For example, a White man who does not smile may be seen as a competent authority figure, while a woman of color who does not smile may be seen as angry and difficult to work with. Develop strategies to keep committee members alert to the reality of implicit bias.

Step 5: The Decision

I think she is great, and if we had a position that was specifically about urban schools, then she might be right for the job . . .

Try this thought experiment: a predominantly White hiring committee with a White person as chair hires a White person. The next hire is a White person. The next hire is a White person. The next hire is a White person. It could go on for years this way, and the people who might raise a red flag are most likely only faculty of color or others working from a critical social justice framework. In fact, one of us taught in a department that went seventeen years without hiring a single person of color. Now imagine that a Black person is chair of the committee, and two or more members are Black. The committee hires a Black person. Most (White) people would raise the red flag right there, but certainly they would do so if the second hire and the third and fourth hires were also Black. But when a red flag is raised on the continual pattern of White hires, justifications often surface, including:

- There just aren't many qualified people of color in this field. People of color who excel usually don't choose to go into education because the pay and status are low.
- We did everything we could to recruit candidates of color, but they just aren't applying. We can't create people who aren't there.
- We needed someone who can hit the ground running.
- Are you saying we shouldn't have our jobs?

When a committee is ready to meet to vote and recommend a candidate for a position, two dominant discourses tend to emerge: fit and merit. As Ian Haney López (2015) argues, *fit* is the "dog whistle" of the hiring committee, or how committees signal race without explicitly naming it. From this perspective, "candidate fit" actually means their ability to keep White people racially comfortable and their likelihood of leaving Whiteness (or the status quo) undisturbed. Hand in hand with fit is the discourse of merit. These discourses and the assumptions they rest on need to be continually interrogated.

— Constructive Alternatives

If, as academic institutions, we truly want to correct the existing diversity imbalance on campus, we need to develop our stamina and skills in talking about identity at every hiring decision. To do so, practice the following strategies:

- *Avoid coded discourses, such as "adding diversity."* These discourses fetishize and commodify non-White bodies. When hiring committees are considering a candidate of color, the fact that the candidate would "add" diversity to the faculty is most always talked about, yet when a White candidate is at the top of the list, the fact that that candidate would *not* add diversity is not

talked about. Grapple openly with how every candidate will or won't contribute to your equity goals.

- *Attend to the reality of implicit bias.* If, as a hiring committee, you are all (or predominantly) White and are excited about a White candidate, ask yourselves if there might be something going on that should be grappled with. Revisit the case for the White candidate and consider how much of the case is based on *descriptive* qualifications ("integrates multiple perspectives in their research as evidenced by . . .," "demonstrates commitment to equity as evidenced by . . .") rather than *evaluative* ones (friendly, relaxed, great sense of humor, cool style, fits in, students love her).
- *Revisit the institutional mission and vision statements.* As a committee, you should ask whether your practices and outcomes are in line with the institution's professed values. If not, then be honest about the department's unwillingness to be accountable to those values and remove any misaligned statements from marketing and other materials promoting your faculty.
- *Acknowledge and address power dynamics on committees.* Junior faculty are most vulnerable in their positions on committees. At the same time, they may actually be more current on research related to diversity if this is their field or they were mindful to attend to subjectivity in their research. Yet they often don't challenge their tenured/senior colleagues due to concerns about career progression. Talk openly about your positions and plan how you will mediate the power differentials. For example, the chair might explicitly state that all perspectives are necessary for a successful search and express an expectation that there will be no retaliation for disagreements. The chair should also be mindful to facilitate the discussions in an equitable way by, for example, calling for go-arounds to ensure that all voices are heard, not allowing the most powerful members to set the agenda by speaking first and most, and checking in with quieter members both inside and outside the meetings.

"Yeah, but . . .": Common Narratives of Resistance

Our constructive alternatives will be challenging to operationalize, but we have to be honest in asking ourselves, *Do we really want to open the gates to greater faculty diversity?* If we are indeed committed, and this commitment goes beyond simply marketing the bodies of racialized students to sell our campuses as diverse, we need to be prepared to do *everything* differently, because everything in the institution was set up to reproduce the existing order. Thus, every step of the hiring process is an opportunity to interrupt the reproduction of racial inequity.

Here we identify common objections and explicitly speak back to them from a racial equity framework.

Won't putting diversity ahead of subject-matter expertise bring down the quality of our institution's research profile?

Diversity literacy and subject-matter expertise are not mutually exclusive, and we need to challenge the implicit bias that continually positions them as such. Further, our measures of quality must be interrogated. If we continue to base quality solely on factors such as the tier of publication, then, due to the institutional and cultural supports that exist for mainstream work, White, male, middle-class, and otherwise privileged scholars will have the equivalent of a "wind at their backs" (Kimmel, 2002) and will continue to excel by these measures, with research that does not further the cause of racial justice continuing to be elevated. Might we instead consider research that does not further the cause of racial justice to be, in fact, *lesser* quality research?

You're just advocating for diversity because it's your area of scholarship. Why not make math education a mandatory subject for all candidates to demonstrate expertise on?

Let us be clear. We are not advocating that diversity be put ahead of subject-matter expertise. We are advocating for an understanding that *one cannot be considered to have subject-matter expertise if one cannot position their field within a sociopolitical context*. For example, if a STEM education candidate is not able to articulate how STEM education can meet the needs of a diverse group of students, recognize that up until now it has not, and have some analysis of why that is and how it might be remedied, that candidate is not qualified in STEM education. Especially as schools become increasingly separate and unequal, we must consider this ability as integral to all positions rather than as optional, desired, but not really weighted.

We are all for diversity, but isn't privileging candidates of color over White applicants just reverse racism?

Racism is different from racial bias. While all people have racial biases, *racism* refers to the collective impact of that bias when it is backed by the weight of history, legal authority, and institutional control. When these dimensions are present, racial bias is transformed into racism, a system of racial oppression. By definition, racism is not fluid and cannot be wielded by individuals regardless of their racial positions; thus, reverse racism does not exist (Sensoy & DiAngelo, 2017).

Also, there is an abundance of empirical evidence that people of color are discriminated against in hiring and have been for generations and into the present (Cheung et al., 2016; Derous, Buijsrogge, Roulin, & Duyck, 2016; Hasford, 2016; Rivera, 2015). Unfounded beliefs that diversity goals require unqualified peoples of color to be hired over Whites are insulting because they are based on the assumption that a person of color could not possibly have been the most qualified.

In the case of two candidates who are equally qualified but one is a person of color and the other is White and the workplace is not racially diverse, consider that the person of color is actually *more* qualified because they bring a perspective to the workplace that is missing.

Aren't we setting up new hires to fail if we bring them into a hostile workplace?

While this statement is meant to exhibit concern, it actually conveys acceptance of a racially hostile workplace. If we are aware enough of the racial hostility that we can make this statement, why is it being allowed to continue? Why are we not up in arms about our climate and putting all effort into changing it?

Unexamined Whiteness does make for a hostile work environment for peoples of color, and support will be needed for new hires. Efforts to change the climate and support faculty of color should occur simultaneously. But while this need for support is often positioned as a deficit of candidates of color, consider all the resources put into diversity workshops for White staff. Why do we not see this need for training as a deficit of White employees? Why would we continue to hire candidates who we know will need this education? Why are we willing to wait for them to receive it, even as we know that these training sessions are only occasional occurrences and rarely ever mandatory? In fact, most faculty may not ever receive this training or respond constructively to it if they do. Why is the harm that unaware faculty perpetrate on students and colleagues in the meantime acceptable? We are in support of continual training; racial justice learning is ongoing and our learning is never finished. Still, we do not recommend hiring people with virtually no interest or foundational education.

There just aren't qualified diverse candidates out there.

Change is difficult for many, especially when the change in question is to a system that serves and privileges us. We tend to make excuses and put up roadblocks for inaction rather than take risks, be innovative, and be accountable to diversity goals *no matter what* challenges may emerge. In addition, there are nondiverse candidates who specialize in diversity content and can bring the critical expertise that is much needed. Students have demanded that White faculty with the skills to engage in diversity with complexity and nuance also be hired (not just well-intentioned open-mindedness, which almost all faculty will have). When we consider White candidates with these skills and perspectives, our pool opens even wider.

These are really good suggestions and thank you for raising them, but the job description was approved by senior administration and it cannot be changed. Besides, if we ask them for changes, we risk losing the position altogether.

Leadership often argues that many of the components of a search have already been approved and thus cannot be changed. While this may sound

reasonable, consider what is actually being said: *We developed these practices without a lens on equity. Now that we have begun to profess valuing equity, we can't change them.* Of course, this is not true; institutions can and do change policies all the time. But we must have the will. Centuries of exclusionary policies will not shift without commitment and the courage to fight resistance. If we cannot demonstrate that we have this commitment through our actions *and their outcomes*, in good conscience we should stop making the claim that we are campus communities that promote diversity, respect, and inclusion.

Conclusion

Demonstrating the value of racialized and Indigenous scholars in the academy . . . means disrupting established ways of doing things and challenging normative notions of selection, appointment, and promotion.

—Frances Henry *et al.*, *The Equity Myth*

The default of historically White institutions is the reproduction of racial inequality. From that premise comes the understanding that we cannot rest on our good intentions or self-images and expect our outcomes to change. As Frances Henry and her colleagues (2017) remind us, "For many racialized and Indigenous faculty, whose numbers have increased only slightly over the past three decades, the policies and diversity initiatives are only a foil to deflect criticism of a system that is doing little to change itself" (p. 8). Rather than exempt ourselves from the lack of change, we must consider the inevitability of our complicity. Our task, then, is to identify *how* our complicity is manifesting, rather than to establish our so-called openness or neutrality.

Pushing against tradition and the normative practices that have been institutionalized and function to exclude diverse faculty at every step is profoundly challenging. We are up against historic and current differentials in power, privilege, and access that are manifesting concretely (even as their existence is denied). Interrupting these processes requires that we reconsider a multitude of commonsense practices. With this in mind, we offer small steps that can be taken at each point in the academic hiring process. But first we must have the will. We ask our White colleagues to consider how a lack of knowledge, apathy, seeing oneself as "the choir" without need for specific effort, and any resentment toward this work function to hold racial inequity in place. Ideally, we understand the ongoing and lifelong struggle inherent in changing deeply embedded patterns and practices. But if we do not have the knowledge and skills that develop out of sustained intentionality rather than mere good intentions and are not actively working toward attaining them, we must not position ourselves or our programs as "valuing diversity" or "encouraging diverse candidates." To claim that HWCUs value diversity and seek a diverse faculty without fundamental changes in our processes is meaningless, though not benign.

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MODULE 3

Systemic Exclusion: Cultural Calls
and No ‘Fits’

“Culture Fit” as “Anti-Diversity”: Avoiding Human Resources Decisions that Disadvantage the Brightest

BY KEREN DALI (Editor-in-Chief)

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A Story Worth Telling

I have just had a chat with a good friend who recently completed her on-campus interview in a small liberal arts college library. With a brilliant education from one of the top-ranked ALA-accredited schools, a knowledge of multiple languages, international work experience, and a solid publication record, she felt that she had a fair shot at this position. The hiring decision, however, was negative; a formal response claimed the usual—someone else was a better “fit.” When she queried the library website a while later, she discovered that the person hired was a younger man with a fraction of her education and experience who, unlike her, did not belong to a visible or religious minority and was from the geographic area in question. We will never know for sure what this lack of fit exactly meant in this case. It did not seem like a bona fide lack of fit with the actual position requirements or the library’s declared values. Much more likely, it was the proverbial “culture fit” that is so difficult to detect and define but that often serves as a crutch for justifying biased (non)hiring decisions, irrespective of whether bias is overt or implicit/unconscious. In this case, fit could have implicitly referred to so-called surface-level diversity characteristics (e.g., ethnicity, religion, gender, country of origin) or deep-level diversity characteristics (e.g., a worldview and opinions that do not align with the expected and the mainstream; personality traits; a life experience different

from that in a well-to-do East Coast state; in professional terms, a different—much more acute—appreciation for the issues of censorship, intellectual freedom, freedom of expression, access, and collegiality in a small interdependent library team). In this case, the culture fit argument has cost this library the great potential, energy, and revitalization usually associated with multiple layers of diversity in a newly hired librarian. The diversity cost was tied into both surface- and deep-level diversity characteristics. The latter is frequently referred to as values-based diversity.

It is values-based diversity that is often threatened and attacked by the elusive weapon of culture fit, and it is values-based diversity that is the focus of this editorial. Of course, demographic diversity characteristics may become grounds for discrimination and inequality that results from biased attitudes and prejudiced behaviors. For example, researchers from a Harvard-led team that investigated implicit bias “found that the highest levels of bias—70 percent or more—were directed at blacks, the elderly, the disabled, the overweight and other stigmatized groups.”

Furthermore, minorities internalized the same biases as majority groups” (Babcock, 2006, para. 5). Not dismissing the biases related to observable diversity characteristics, this editorial delves into the less conspicuous and just as significant aspect of diversity—the values-based one.

Sorting Terminology Out

The concept of values-based diversity is gaining prominence in our field, which has traditionally been “focused on increasing the number of underrepresented populations among our ranks” (Hudson-Ward, 2014, para. 1). Today, however, we seek “more than visual representations of diversity as proof that an employer offers an inclusive environment” and wish to account for “the totality of an individual’s diverse contributions and lifestyle choices” that can “matter as much as demographic differences” (Hudson-Ward, 2014, para. 1). Values-based diversity certainly includes consideration of “visible characteristics and demographics”; however, it also includes “diversity in thought, diversity in approach, and diversity in ideas”; differences in communication styles and types of motivational factors at the workplace; generational differences; and cultural heritage, to name just a few (Hudson-Ward, 2014, para. 3-4).

Values-based diversity often ties into so-called deep-level diversity characteristics—ones that are not easily observable but come out in the course of interactions, collaboration, social and work-related activities, learning processes, and so on. A related and somewhat overlapping concept is acquired diversity (“e.g., cultural competence and fluency”), which can also encompass one’s worldview and work or communication styles (Hudson-Ward, 2014, para. 10). One concept we are most familiar with is demographic or inherent diversity, also referred to as surface-level diversity (e.g., gender, race, sexual orientation, body ability, heritage language, religion, and so on) (Hudson-Ward, 2014, para. 13). An appreciation of the importance of deep- level and values-based diversity is particularly important in counteracting the misguided application of the culture fit argument in human resource management decisions and its detrimental effect on the state of diversity and inclusion in our workplaces and higher education.

The Sneakiness of the Culture Fit and Its Anti-Diversity Stance

The story which gave impetus to this piece is not unique,

of course. Culture fit is used time and time again in hiring and promotional decisions in not-for-profit settings (libraries, archives, museums) and academia, not only in industry, and even the most diversity-conscious organizations and departments “still use this term without fully understanding its implications” and strive to hire people for culture fit (She Geeks Out, 2018, para. 1).

As though it were an unequivocally good thing. It is not. And even if an organization defines its culture as “inclusive, warm, welcoming, fun, and hard working,” we have to be inquisitive and critical about what these designators mean (She Geeks Out, 2018, para. 1). Such words as inclusive, warm, and welcoming may serve as euphemisms to disguise a culture of groupthink whereby “alternative viewpoints might not be valued” (She Geeks Out, 2018, para. 2). Masquerading as a great organizational culture, there might be an environment that shuns those who see the world differently, seek change, have a critical eye, and not only notice things that require attention but also dare name these things out loud; those who push the envelope and disrupt the established order; or simply those who stand out: the quickest thinkers, the most brilliant writers, the best presenters, the most highly educated, the bravest, the most experienced—in short, those who will make the average and the complacent look bad. Or will make them work harder to measure up to a new standard of excellence.

As a result, culture fit—an offshoot of unconscious bias and the desire to work with people like us—is far more common [as a reason] not to hire someone” than a reason for hiring (Wharton School, 2015). Rarely will it be explained “what aspect of the [organizational] culture” strikes discord with the new candidate, (Wharton School, 2015, para. 3) and the hiring decision will then rest on emotive personal impressions and the likeability of the candidate. The latter is usually determined in the course of social interactions embedded in the interview process and/or casual chats. Filtering out the undesirables is not limited to hiring and also affects retention. Psychologist Benjamin Schneider,

through the Attraction-Selection-Attrition (ASA) framework, proposed that “[l]ike-minded individuals select each other to be part of an organization, and sooner or later, the ‘misfits’ leave” (Wharton School, 2015, para. 11).

Of course, there is always a degree of correlation between the diversity of life experiences and worldviews and the diversity of demographic characteristics. However, the working ethos of culture fit can create a situation whereby a team will be diverse demographically and representative of different social groups (by gender, race, ethnicity, sexual orientation, and body ability) while remaining homogeneous in terms of cognitive thinking, working styles, social class, ethical approaches, and international orientation. For example, organizations and university departments, which make an effort to reduce longstanding inequalities and discrimination and the exclusion of traditionally marginalized groups, can create an environment whereby all team members have fair access to “resources and opportunities like coaching, developmental opportunities, high-visibility projects, [and] leadership roles,” and whereby “pay and other perks are fairly distributed” (Nishii, 2018). Fair access will likely blur the intergroup boundaries to some extent but will not make the team less vulnerable to groupthink and the subsequent exclusion of people on the grounds of values-based diversity. That is to say, even such places as university departments, libraries, museums, and archives are not immune to the misuse of culture fit and the subsequent lack of intellectual heterogeneity.

The team spirit at the workplace is incredibly important, and a high level of consensus on the foundational values certainly keeps the team together. However, it also bears the hidden danger of homogenizing the team intellectually and preventing openness and evolution. Heterogeneity at the workplace is not only about new ideas and creative influx. It is also an antidote to complacency, groupthink, intellectual stagnation, and unfair workplace practices. These negative phenomena may be easily overlooked in a team of think-alikes. Heterogeneity encourages a more careful processing

of information; “[s]ocial awkwardness” introduced by “socially distinct newcomers and the social concerns their presence stimulates among old-timers motivates behaviour that can convert affective pains into cognitive gains—or, in other words, better group problem solving” (Wharton School, 2015, para. 19, citing Phillips, Liljenquist, & Neale, 2008) and healthier workplace dynamics. Although, in some situations, “similar people work better together,” for “jobs involving complex decisions and creativity, more diverse teams outperform less diverse ones. Too much similarity can lead to teams that are overconfident, ignore vital information and make poor (or even unethical) decisions” (Rivera, 2015, p. 11).

Culture Fit as Social Fit

That is to say, defined as the like-mindedness of colleagues, culture fit is antithetical to diversity. While it may or may not conflict with demographic diversity, it often does conflict with values-based diversity manifestations. Looking to hire a “culturally fit” individual, employers, wittingly or unwittingly, perpetuate the workplace status quo.

That being said, we cannot ignore the fact that a new team member should feel comfortable and included in a new setting. So, some degree of compatibility between the person and the new workplace is obviously necessary. Is it a culture fit or something else?

It is definitely not a “social fit.” When culture and social fit are conflated, the former shifts “from systematic analysis of who will thrive in a given workplace to snap judgment” about whom the current team members would “rather hang out” (Rivera, 2015, para. 2). From the intended fit with the job requirements and organizational values, the concept morphs into considerations of personal fit (Rivera, 2015), and hiring “based on personal fit can keep demographic and cultural diversity low” (Rivera, 2015, para. 10). For example, several leaders of Google, a company known for their successful talent attraction, are confident that:

You must work with people you don't like, because a workforce comprised of people who are all "best office buddies" can be homogeneous, and homogeneity in an organization breeds failure. A multiplicity of viewpoints—aka diversity—is your best defense against myopia (p. 107) [...]. These differences of perspective generate insights that can't be taught (pp. 107-108) [...]. Great talent often doesn't look and act like you (Schmidt, Rosenberg, & Eagle, 2014, p. 108).

Google's professed approach to hiring may be an exception, though, because, as Rivera (2015) claims, “[s]electing new employees based on personal similarities is by no means unique to banking, consulting or law; it has become a common feature of [North] American corporate culture” (para. 9). However, not-for-profits and academia are not immune to these missteps either, and it is particularly disheartening when these practices are noticed in the departments and professional settings that pride themselves on leading the way in diversity and inclusion efforts in LIS.

This fallacy of social fit as a criterion for hiring pretty much sends the merit of social lunches or dinners and informal interactions (factored into hiring decisions) out the window. It is very “easy to mistake rapport for skill” (Rivera, 2015, para. 13) and to forget that the candidate’s potential is not about “hobbies, hometowns and biographies” that match those of potential employers and colleagues (Rivera, 2015, para. 8). As Condon (2017) rightly notes, a workplace is “not a fraternity or social club,” and it is “certainly not a family. You don’t performance-manage out family members and you rarely do so to your friends, but you need to be able to do that at work” (para. 5). This does not mean that we cannot find friends at work. This does mean, however, that we do not hire a new person to fit ourselves; we hire them to fit the values, mission, and work content of our departments and organizations. How should we go about it?

Value Fit and Culture Add

We can certainly take steps—and time—to clearly define culture fit in measurable and unambiguous terms.

Instead of impressionistic phrases, we can use the guidance of job requirements and organizational values as a baseline for determining compatibility. Management literature refers to it as ‘value fit,’ i.e., the degree to which people “embody and share” core organizational values (She Geeks Out, 2018, para. 3). There are no longer “great guys” or “folks nice to have a chat with”; there are those who relate to current team members by virtue of shared “respect, empathy, accountability, transparency, integrity, and passion” (She Geeks Out, 2018, para. 3). They may bring a different flavor and interpretation to these terms, expanding and enriching them; thus, they “create a culture add” for the new workplace (She Geeks Out, 2018, para. 3). This is a much more reliable test and predictor of future adjustment than the famous “airport test” (i.e., “who would you not mind being stuck at the airport with?”). Condon (2017) strongly advises that interviewers “aim for ‘core value’ fit, and if you’d be okay getting stuck in an airport with them, that’s a bonus” (para. 6). Although “eliminating culture fit from your vocabulary and processes might end up meaning that it takes more time to find the right person, [...] finding someone who is a great culture add and values fit could be exactly what” a university department or a professional setting “needs to grow” (She Geeks Out, 2015, para. 5).

Building the Value Fit and Culture Add into the Interview Process

Panel interviewing or interviewing done by multiple team members independently have been proposed almost unanimously as a way to avoid defining culture fit as social fit and, to the extent possible, to reduce unconscious bias in hiring. Reduce, but not eliminate completely. Seeing that “we all gravitate toward people we consider to be similar to us, even the most scrupulously fair hiring managers tend to think more favourably of people who remind them of themselves. The result is an uneven process that limits diversity and fails to secure the best talent” (Rock & Smith, 2018, para. 3).

Becoming aware of cultural and personal biases and their effect on the types of questions asked during the interview would be the first step. Another step would be having a structured rather than free-floating interview, which is something implemented today in many information science settings and academia. However, even this strategy is not foolproof. In fluid, complex settings, in creative, interdependent research teams, wherein people are bound by multiple shared projects and responsibilities, it is very hard sometimes to achieve entirely autonomous judgements and opinions, especially if you factor in the hierarchical and power relationships among committee members: supervisors and supervisees; mentors and mentees; tenured and tenure-track faculty; students and faculty. This further complicates the picture and, behind the façade of structured interviewing and panel approaches, decisions may also be biased or skewed. Moreover, structured interviewing usually provides guidance on what data to collect and how to collect them but not on how to weigh, interpret, or validly compare the data gathered about different candidates or how significant the fit component should be vis-à-vis other evaluative criteria (Rivera, 2015, para. 16).

Rivera (2015) writes that “in many organizations, fit has gone rogue” (para. 2). This applies to not-for-profit and academic settings, too. Having specific and rigorous documentation, however, can help with keeping committee members on track if they do veer off into discussing candidates in impressionistic and subjective terms.

Types of Documents that Can be Used to Guide Hiring and Promotion Committees

So, what documents could be helpful to keep decision makers on track?

One could be A Checklist of Phrases and Qualifiers to Avoid in verbal discussions and written reports reflecting on the candidate because they are an indication of unconscious bias:

- “We did not have a good feeling about this person.”

- “She did not seem like a good fit with the department.”
- “We did not think they would be all that good as part of the team.”
- “They did not appear to be the team player we were looking for.”
- “He is such a great guy to spend time with!”
- “I talked to her and knew right away she was a match!”
- “They are a true team player!”
- “They have a positive attitude that will help them fit in!”
- “I like her a lot. She will be very compatible with the rest of the team.”

And other phrases similar to those. Or similarly motivated. The leadership consulting company GapJumpers also reinforces the need to eliminate “subjective junk (like passionate and team player)” from the hiring language (Rockwood, n.d., para. 3). By the way, Google leaders also claim that “truly passionate people don’t often use the ‘P-word’” (Schmidt, Rosenberg, & Eagle, 2014, p. 100); passion shows naturally in what they do and how they discuss it; no need to call it.

Another document could be a clearly articulated list of Organizational Values and Mission Goals, which accurately define your organizational culture and can, in fact, signify the true culture fit. Proof for all of the below can be found through specific, example-based interview questions and the candidates’ record based on their submitted portfolios.

Orientation toward collaboration

- Skills to work in a team
- Independent and creative decision-making
- Ethical decision-making
- Detail- or result-orientation
- Growth mindset
- Commitment to diversity and inclusion
- Focus on people
- Productivity

- Ways of dealing with failure, stress, and strong emotions
- Strategic and holistic vision
- Planning skills
- Ability to execute and deliver
- Flexibility, adaptability, and agility
- Value of service and public engagement
- Fairness
- Teaching skills

By the same token, it is useful to create a bulleted list of core job requirements and have it as a checklist, not as a narrative paragraph, in front of the committee in the course of discussion and decision-making. It goes without saying that it is impossible to eliminate unconscious bias completely. Moreover, if there is a basic lack of integrity to the hiring process, if the successful candidate is determined from the get-go, and if the whole process is just a sham, then no documentation and self-awareness exercises will help. However, for the most part, this is not the case, and most hiring committees are genuinely motivated to improve their processes and to reduce bias. They could start by exploring the true meaning of their organizational culture, so that no great candidates are erroneously eliminated as cultural misfits, and so that diversity does not suffer in the process.

I have chosen to dedicate my editorial to organizational culture for a reason this time. The entire issue, edited by Dr. Bharat Mehra, is about diversity and inclusion in specific information and cultural organizations. This time, the grand tour of the issue is in his capable hands.

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Chapter 4: Decolonizing Design Means Making Amends is More than Diversity, Inclusion, and Equity

BY ELIZABETH (DORI) TUNSTALL

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Figure 4.1 Dori experiences a ‘Kunta Kinte vs. Toby’ moment in making the Black Cluster Hire happen. Illustration by Ene Agi.

I could feel the tears welling in my eyes. They always did at this part of the keynote where I described how diversity is getting the invitation and inclusion is getting invited to dance, but that they are not enough. I tell the audience a secret—that I once got bullied from a job after standing up for myself and the team when an executive director came in to give a “swoop and poop” on the work that the team had done.

“The next day,” I say, “My teammates would not meet me eye to eye. Within the week, there were meetings

about me, to which I had not been invited. By the end of the week, I had been reassigned from plumb assignments. Always having an exit strategy in place, I soon left the company and found another position. Inclusion is not enough because if you choose to dance the salsa instead of the foxtrot, you get punished. Thus, take-away #2 is Asking diverse peoples to dance to a white European, male CIS, hetero, middle class, abled body and mind, Christian status quo (i.e. the power structure) is genocide to our spirits.”

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In an interview with David Brown for the advertising magazine, *The Message*, he asked me a follow up question via email if this experience was not a reflection of “bad management and unhealthy for any employee.” I explained to him that, when you are Black and female, the lack of acceptance for who you are, the lack of respect, compounds the toxicity of any work environment because it is a wider reflection of how the whole society sees you. In other words, each difference that I have from the list of normative identities means that the entire world is, more often than not, also a toxic environment.

The sad thing is that this story was not the first or the last time that I was bullied from a work environment. Much like the proclamations made by design firms and institutions after the summer of 2020, the high-tech

firms and the design education institutions where I have worked all championed diversity and inclusion. In fact, my presence was often used as a tangible proof of their commitment. Yet there are clear reasons why my experiences of these design firms and institutions were diversity and inclusion failures. The diversity was not allowed to reach a critical mass to influence the culture, strategic direction, and the real power structure of the institution.

The inclusion required me to culturally assimilate to the dominant norms, often working against my own values. My intention is that, by having you understand my experiences of failed diversity and inclusion initiatives, you will find success by refocusing your efforts on the real systemic change of decolonization.

Of Black Squares and DEI

When design firms and institutions were one of the 28 million Instagram users, including myself, who posted their Black Squares in solidarity with the #BlackLivesMatter movement in the Summer of 2020, I was skeptical. Like most other Black folks, we had experienced performative allyship, before. The skepticism was so widespread that immediately in June there was a burst of newspaper and magazine articles and blog posts explaining what performative allyship was and how, especially white allies, could avoid it. Forbes and Fortune, Fast Company, the Guardian in the UK, Elle Australia, even Goop published articles. My favorite was Performative Allyship Is Deadly (Here's What to Do Instead) written by Black sociologist Holiday Philips on Forge Medium on May 9, 2020.

For most of us Black, Indigenous, Latinx, Asian-Pacific, Middle Eastern, and other non-white European folks, our skepticism of performative allyship is passed down through the generations. My parents' generation, growing up in the United States Civil Rights Movement in the 1960s, had described the white folks who said they supported civil rights, but still would not rent housing to Black people. My Grandmother's generation told stories of stores who wanted Black dollars, but only if

they agreed to be served by the backdoor. My Great Grandmother's generation generally had very few stories of allyship to tell. There are stories of individual kindness, for example of the big German woman, Katrina, after whom my Great Grandmother was named, but not stories of general white allyship. Even though my family had lived in the Indiana itself (i.e. the North) for at least seven generations, which was two generations more than could be traced to the Wood's family homestead, we carried enough genetic memories and contemporary reports from The South, even if just Southern Indiana, to remind us of the daily horrors of white supremacy and thus to never fully trust white people.

For me, anyone's action is performative allyship if they don't give up something precious in order to advance decolonization or social justice. And what little trust is put into white people has to do with the few examples of these sacrifices in our family stories as well. For example, my Uncle Sonny discovered that the mother of my Great Grandmother Jennings was not Indigenous as the family stories told, but rather white of European heritage. She had lied on her marriage certificate so that she could marry a Black man. Yet, her disownment by her family was so complete that she gave each of her children the names of her loss brothers and sisters. So, we give major Prince-level side eye, but also carry with us the temptation to give white people the benefit of the doubt.

Thus, my skepticism turned to curiosity as I started receiving calls from design firms and institutions asking "What can we do?" after hearing me talk about OCADU's Black Cluster Hire at the Where are the Black Designers? Conference on June 27, 2020. These vetting conversations made it clearer to me that these people were sincere in at least making big plans through hiring initiatives. Hiring initiatives are so important because they are what can really change the structure and focus of the firm or institution. Hiring initiatives has always been the place I have started in decolonizing design for very practical reasons:

- Revolution happens from within. For a firm or institution to change, it needs us diverse peoples to

- be in the position to help the organization make different decisions to bring about the change.
- Diverse peoples bridge to external communities. If the firm or institution wants to connect with a community, it needs to have insiders within that community as also insiders to the firm.
 - It directly confronts histories of systemic exclusion from paid employment that has left diverse communities marginalized economically. There are caveats regarding this in terms of fair pay and working conditions. But one of the ways, around the world, in which we diverse peoples are left vulnerable is by firms and organizations not hiring us.

During the month of June 2020 in the midst of #BlackLivesMatter protests against the murder of George Floyd, OCAD University announced the results of our Black Cluster Hire with the appointment of five Black full-time faculty to the Faculty of Design. It was the beginning of the institution making amends for the 144 years of zero representation of full time Black faculty in Design. Because OCAD University was ahead of the curve by a year, we were able to help inform and guide other Black hiring initiatives as they were being announced and planned both in industry and higher education throughout North America. In July 2020, Rhode Island School of Design announced the intentions for its own 10-persons Black cluster hire across its art and design programs in response to student and faculty activism. In August 2020, University of California Irvine announced their investment in the 10 Black Thriving Initiative faculty FTE over the next 3-4 years. In November 2020, McMaster University announced a cluster hire of 12 Black faculty. While the design industry did not explicitly call for Black cluster hires, they did announce intentions to increase the hiring of Black people, in spite of the Pandemic.

Given a Call for Equity from People of Colour in Advertising and Marketing's (POCAM) open letter on June 16, 2020, the advertising industry, especially in Canada, was quick to respond with hiring initiatives. Former Creative Operations Manager at Taxi Agency

Toronto, POCAM co-founder, and a Black woman, Stephanie Small led the establishing of Black Taxi in July 2020, which embarked on a re-writing of Taxi's HR policies and job descriptions (which was directly influenced by OCAD U's Black Cluster Hire work), shifting its outreach efforts, eliminating unpaid internships, and partnering with organizations to provide mentorship. I am personally aware of its success because at least two OCAD University Black advertising students directly benefited from Black Taxi's efforts. In June 2021, POCAM established a tracker for the 106 agencies and clients who answered The Call to Equity.

In July 2020, Publicis appointed leadership to Mia Pearson, Brent Nelson, and Stephanie McRae for its Diversity and Inclusion initiatives across all eight business units with the consolidation of funds and then the adding of an \$45 million USD in funds. It identified four pillars of focus: education (first focused on anti-Black racism), outreach (to improve its pipeline), talent management (retention and promotion), and giving back (community partnerships and philanthropy).

I had the opportunity to speak with Stephanie McRae, the head of HR for Leo Burnett and Saachi and Saachi and a Black woman, when they were finalizing their priorities. It was clear that Publicis's had a sophisticated understanding of the issues. A year later according to the report published in Adweek, Publicis' U.S. hiring and promotion efforts showed modest increases among Black (5.4% to 5.9%), Hispanic or Latino (8.1% to 8.3%), Two or more Races (1.9% to 2.7%), and Asian (15.1% to 15.4%) groups; held steady with American Native (0.4%) groups, and decreases in white groups (69.1% to 67.3%).¹ The positions of greatest growth were at the entry levels with the company recognizing that more work was needed to increase representation at the leadership levels and with Indigenous groups.

In July 2020, two hundred CEOs of Canada's largest institutions signed the Pledge to the BlackNorth Initiative against systemic racism to have "3.5 per cent of executive and board roles in Canada held by Black leaders by 2025." By June 2021, it had increased the

number of signatories to 500 companies and institutions across Canada, although still not disclosing any increase in the number of Black people appointed to executive or board positions.

DEI is not Decolonization

While these hiring initiatives are important, they are not the same as decolonization and even as diversity, inclusion, and equity initiatives they can be subject to pitfalls that might doom them to failure. One of the ways in which I determine whether a North American or Australian design firm or institution is focused on diversity and inclusion, or decolonization is whether their hiring initiatives are for Indigenous peoples first. My first Indigenous hiring initiative was as the program leader for the Master of Design (Design Anthropology) Program at Swinburne University of Technology in Melbourne, Australia. In the specialization Indigenous Ways of Knowing, co-created by Dr. Norm Sheehan, members of the local Aboriginal and Torres Strait Islander communities, and me, we successfully hired four Aboriginal faculty to teach the courses for the specialization and the fundamental design module on 2D design and Indigenous Ways of Knowing. What makes me proud is that these four went on to use the teaching credentials gained at Swinburne to find higher positions in education and culture.

OCAD University's first cluster hire to address underrepresentation was an Indigenous Cluster Hire. This was initiated by me after two failed single searches for an Indigenous faculty and an Indigenous administrator. As an institution, we were not ready yet because we did not know enough about what decolonization really meant to us. I proposed to my fellow deans that we pool our searches together for a total of five positions. We would have the Provost lead it and majority Indigenous faculty on the committee. Once the then Provost Jill Siddall accepted the proposal, there were critical steps to make it happen:

1. Our Office for Diversity, Inclusion, and Sustainability Initiatives (ODESI) had to reconfirm that we could hold the Indigenous-only cluster hire

under the Special Program of the Ontario Human Rights Code, which allows for positive discrimination where there is demonstrable underrepresentation. ODESI was responsible for creating the context for decolonization for 10 years before I arrived as OCAD U. Independent of the University, they have been able to hold the University accountable for systemic changes needed to create a work and learning environment based on principles of human rights, equity and accessibility. For places that do not have a Special Program, I based my idea of a cluster hire on the work that University of California Riverside had done in 2015-2017 to use interdisciplinary subject matter research clusters to boost diversity and inclusion of Indigenous, Black, and Latinx scholars.

2. The OCAD U Faculty Association (i.e. the union) and HR had to work together to negotiate a different format for the hiring committee in which the Provost chaired it, there was majority Indigenous faculty and student representation, and two Deans on the committee. This was outside of our normal Memorandum of Agreement. This highlights the importance of having union support for decolonization efforts.
3. Human Resources had to prepare the training of the committee members and the preparation of the hiring database system to enable Indigenous candidates to self-identify.
4. The wider OCAD University community through Senate had to endorse the concept.

Both in Australia and in Canada, there were Federal mandates to support hiring Indigenous first. Swinburne University had a Reconciliation Action Plan based on the Bringing them Home Report on the stolen generations and following up on the 2008 formal National Apology by Prime Minister Kevin Rudd. OCAD University had a Presidential Task Force on Underrepresentation and followed the recommendations of the 2015 Canadian Truth and Reconciliation Committee, especially the call "to develop with Aboriginal groups a joint strategy to eliminate educational and employment gaps between Aboriginal and non-Aboriginal Canadians." There

were aspects of the Indigenous Cluster Hire that were contentious, but the community rallied around idea and we successfully hired five new Indigenous faculty members in 2018.

If you are not figuring out how to eliminate the barriers to hiring Indigenous peoples in your firm or institution, and specifically Indigenous to wherever you are located, then you are not engaging in decolonization. As discussed in chapter one, decolonization means ceding the power of decision making to the original peoples of the land. Hiring Indigenous peoples in critical mass and in real positions of power will help one avoid the several pitfalls of diversity, inclusion, and equity hiring initiatives.

There are many pitfalls, but in my career, two are most likely to cause a firm or institution's DEI and decolonization initiatives to fail: (1) looking for the supertoken and (2) forcing cultural assimilation to white supremacy cultural values.

Beware of the Supertoken

The first pitfall is seeking a supertoken. When asked what it takes to become the first Black dean of a faculty of design anywhere in the world, my answer is straightforward. I am a supertoken, which I define as an individual from marginalized group(s) whose talents are so desired by institutions that they are able to overcome their innate aversion to the individual's identities in order to have access to those talents. Former United States President Barack Obama is a supertoken. Most Indigenous, Latinx, Asian-Pacific, Middle Eastern, and other non-white European person who is a "first" anything is more likely to be a supertoken.

My talent is "everyday genius" level intelligence, specifically for pattern recognition and the creative synthesis of new patterns. When I was in my late twenties, a mentor once gave me the book, *The Gifted Adult: a Revolutionary Guide for Liberating Everyday Genius* by Dr. Mary- Elaine Jacobson.² The book's premise is that to be a gifted adult means not just having a high intelligence quotient, but that you operate at a different

level of sensitivity and intensity than other people. Thus, because you process information more quickly, you might move from A to D while skipping steps B and C, which means you have to cultivate the patience to walk people through the B and C steps that you skipped. Your energy and intensity are high, which means you might have three times the productivity of your peers, which "makes them look bad." The book helped me learn that while people may want my talents, they may not want me. Part of it is the disruptiveness I bring to systems, but also part of it is that those talents come in a young looking, Black, cis-gendered female, which breeds resentment because white supremacy and sexism says that I shouldn't be that smart or that successful.

While the supertoken might originally break down barriers, they also can be used to erect new barriers. The factual answer to how does one become the first Black dean of design is that I had to have a Ph.D. from Stanford University, worked at least seven years in the high-tech industry as a consultant, led the U.S. National Design Policy Initiative, and served as an Associate Dean of Learning and Teaching at a university in Australia. The list of accomplishments in my CV are so rare that not even I feel as if I can live up to them. So it is dangerous if I am used as the "standard." It could mean that other marginalized people might be blocked from access or advancement because they are not "like Dori."

Seeking a supertoken might bring surface diversity, but not necessarily inclusion, and definitely not decolonization. The supertoken exists because they have already excelled in systems that were meant to crush them. Their presence in a firm or institution does not automatically change the system. In some cases, the supertoken might be the one upholding the system with an "I made it through, why can't you" attitude. So if you are seeking a supertoken to hire, make sure that it is one who is willing to use their privileges to dismantle the systems of exclusion for others. It is in this way that they might aid your decolonization efforts.

Forced Assimilation is Harmful

The second pitfall is bringing in diverse employees and forcing them to assimilate to the dominant oppressive-to-their-communities culture. In many places because of European colonization, this means white supremacy culture. In chapter three, I have discussed in detail Kenneth Jones and Tema Okun's research on white supremacy culture and how design by its definition has been steeped within it. When it comes specifically to hiring, this is often because the firm or organization has too few diverse employees to shift the organizational culture. In studies regarding gender parity for women, it required at least 30% women in leadership to shift the decision making of the company.³ While in my work experiences I have not been the only Black employee in the entire organization, I have been most often the only one or one of two Black employees in the entire office. This real minority status often left me feeling vulnerable that if I couldn't persuade others to share my ideas, they would always get rejected. And many times to prevent this from happening, I would have to rely on the combination of a white, male authority figure and a white female ally to support my ideas and then force/persuade others to accept them. Numerical minority status creates a lot of pressure on the diverse individual to assimilate, don't rock the boat, and be self-erasing in order to fit in and be accepted. Without critical mass, firms and organizations experience high turnover of diverse employees. As I described the takeaway #2 in the beginning of this chapter, asking diverse peoples to dance to a white European, male CIS, hetero, middle class, abled body and mind, Christian status quo (i.e. the power structure) is genocide to our spirits.

There are other pitfalls of course, but these two are the ones which I have seen most reflected in my work experience and in the actions design firms and institutions have taken. For example, many of the organizations who signed the BlackNorth Initiative are seeking a supertoken to fill their 3.5% executive and board roles. Many of the hiring initiatives are focused on expanding their internship programs. Bringing one or two very junior diverse young people into the firm or institution sets them up to assimilate because of the real

imbalance of power in their junior positions and the fact that it is often only one or two interns.

Countermeasures

There are countermeasures to avoid these pitfalls. Seeking a supertoken can be counteracted by focusing on speaking to and redefining standards to take into account systemic exclusion.

Assimilation can be disrupted by conducting a cluster hire in which one builds enough critical mass to create at least a diverse sub-culture in which diverse employees can live their cultures freely and have this space serve as a base for wider institutional transformation.

My work on the OCAD University's Black Cluster Hiring in design in 2019-2020 was the implementation of the direct countermeasures to the pitfalls of hiring for diversity, inclusion, and decolonization that I had experienced. Knowing how it happened so successfully might be useful to you. There were preconditions that I set up for the success of the Black Cluster Hire:

- I had been clear from the beginning of my intentions to address the 140+ years of zero representation of full time Black faculty. It was probably in my second or third Dean of Design Dispatch, so the OCAD U community knew it would be coming.
- I built upon the previous successful of the Indigenous Cluster Hire. Thus, I was able to take the learnings on what worked and how we could have improved that process and implement them into the Black Cluster Hire.
- I had built authentic relationships with the Black community not just in Toronto, but in design. These relationships were important to demonstrate that I had community support (i.e. a recruiting base) for the hire and that the community would recognize the accomplishment.
- I had to be willing to take the risks, so that the institution could take the risks.

The importance of those preconditions was that they set the context for the understanding and trust, which would allow the rest of the work to be done through partnerships within and outside the institution.

The first challenge was getting the University to agree to have a Black Cluster Hire in the Fall of 2019. One of the simple ways to dismantle tokenization and supertokenization is to bring in more than one diverse individual into the firm or institution, in fact, three is the minimum. The Provost's Office told me that I had hiring lines for three faculty. But before going directly to the Provost with the idea of the Black Cluster Hire, I vetted it first with my program leadership teams, the chairs and graduate program directors. Because they knew it was coming and there had been a successful model, they unanimously said yes. I then confirmed with our Office for Diversity, Inclusion and Sustainability Initiatives that the Special Program that allowed for the Indigenous Cluster Hire could be used to make the case for a Black Cluster Hire. The Director of ODESI confirmed. Knowing that this was coming, Professor Lillian Allen, a Black member in the Faculty Association, confirmed that OCADFA had approved a Black Cluster Hire in the summer when I reached out.

So finally, I went to the University's upper administration and asked if we could do a Black Cluster Hire. The dialogue went something like this:

Me: I think it is time to do a Black Cluster Hire.

The University: No, right now is not the best time. The Indigenous Cluster Hire was too much work for the Institution, and everyone is stretched very thin.

Me: I agree that it might be too much for the entire Institution. What if we just did it in Design? It would not require any changes to the MOA. You won't have to chair the committee. It will be like a normal search except that there would be one supercommittee and all the candidates would be Black.

The University: Maybe, but you have to check with the chairs.

Me: Done already, we met, and they said that it would be about time.

The University: You need to check with ODESI.

Me: Done already. They say go and HR also says we are ready to go with the self-identification survey in the application forms.

The University: We will need to meet with OCADFA.

Me: From my understanding they approved the Black Cluster Hire this past summer, but also since we do not need a special committee led by the Provost, we don't need a change to the MOA. It can be a normal committee.

The University: Let me think it over and talk to the others.

Me: Okay, but since we have little time, I will start working on the call.

The process of making the Black Cluster Hire happen was me pre-empting and countering every reason why they could say no. The University upper administration saw this process of doing their due diligence in addressing the risks of such an initiative. I saw it as testing my resilience to do the work necessary to counter their no's. Some of the barriers felt hurtfully obstructive. There was a moment when it was brought up that the Board of Governors might not approve three hires as a barrier, when the three hires had already been approved in the previous Board meeting. I did the work addressing all of the concerns, because the moment I did not have a counter, they would use "my failure" as a justification to not make it happen.

The part that I don't often talk about when describing the success of the Black Cluster Hire was the risks that I was willing to take. There was a point in which I felt that no matter how much I countered, I was not going to get a yes. It was a Sunday afternoon. I remember getting off the phone with the University upper administration and exploding into a torrent of tears so hard that I could not catch my breath. I called Lillian Allen and it took me 10 minutes to stop crying hard enough to tell her what was wrong. I explained the situation and she asked me the important question, "What did I want to do?" At this

point, I felt I had only one choice, which was to leave OCAD University. Why? Because if I stayed and could not make the Black Cluster Hire happen, then I was just a supertoken. The most accurate way to describe what I was feeling at the moment was that it was my Kunta Kinte/Toby moment.

Kunta Kinte is a character from the Alex Haley book and the award-winning original television miniseries, Roots, which chronicles the generations of Haley's family from Africa to his generation. Premiering in 1977, I watched the tv show with my family when I was five years old. One of the most visceral scenes is the scene in which the overseer has Kunta Kinte tied up to be whipped because he won't accept his enslaved position, represented by being renamed Toby. The overseer whips Kunta saying, "Your name is Toby." Kunta defiantly says, "[My name is] Kunta Kinte." He is whipped until nearly the point of death. His body and spirit broken, he says finally, "My name is Toby." Over 40 years later, the scene still affects me.

The University upper administration probably still does not understand that each "no" or "do this first" or "have you done that" was a flick of the whip against my soul. That if I could not make the Black Cluster Hire happen, then I would be forgetting who I am (i.e. My name is Kunta Kinte) and allowing them to enslave me to be their supertoken (i.e. My name is Toby). This position of ultimate compromise is one in which you never want to be nor want to place your diverse employees.

Understanding the seriousness of the situation, Lillian switched tactics and asked me what I wanted to happen. What did I want her to do? This pushed me out of my feelings back into strategic mode. I asked her to resolve the barrier they had put up regarding the Faculty Association, because as management, I could not do that. I asked her to see if she could talk to the administration. Then, I wrote my resignation letter, which was extraordinarily liberating. As a leader, you are often having to make compromises, so it is important to know where your "line" is drawn. The success or failure of the Black Cluster Hire was my line. It was a

relief to know that I am not willing to risk my principles for the sake of a job. My leverage in the situation was that the resignation of the first Black dean of a faculty of design anywhere would be a public relations disaster for the institution. I had built up a strong relationship with the Black communities so they would have rallied around the disrespect shown to me. And because I hired my own personal PR firm for over a year, the news of my resignation would not be buried, but amplified throughout the community.

I gave myself until Monday 5pm to send my resignation letter. I didn't have to send it. Lillian had the conversations necessary to push things forward, the OCAD Faculty Association came through with strong advocacy for the hire, and I had the final "Yes" by noon. I deeply appreciate the willingness of the University upper administration to take this risk with me, even if the path to getting there was painful to me. So with the preconditions for success met, I could address the next challenge of transforming the hiring process. This required having a diverse search committee who understood the goals of decolonization, a call to Black candidates that represented them, and redefining the evaluation criteria to take into account systemic exclusion.

Having a Diverse Search Committee

In the article, "We Are All for Diversity, but..." Öxlem Sensoy and Robin DiAngelo describe how to put a committee together to avoid tokenization, "If your institution has the numbers, ensure that the search committee tilts to redress the racial imbalance by having members of color as the majority and, especially, in senior roles on the committee."⁴ By the time of the Black Cluster Hire, OCAD University had changed its policies to ensure diverse representation on hiring committees. Our Memorandum of Agreement allowed for an additional faculty member to serve on the committee based on their expertise and/or diversity. As there were no full time tenured Black faculty in the Faculty of Design, we used this clause to invite another Black faculty member within OCAD University

to participate. We also recruited a Black student representative. I served as the chair of the committee, thus the most senior and the most junior member, the student, were Black. So with the exception of one white female tenured faculty and the HR representative, all of the committee members were racialized. Having chosen each faculty member, I ensured that those selected had participated in the University's cultural competency training and anti-racism/anti-oppression training as well as the HR offered anti-bias training.

In my Hiring for Decolonization Course, one of the frequently asked questions is What do you do when you don't have the diversity in house to create a diverse committee?. I respond that you bring in external partners who bring that diversity. If you are in a small design firm, it might mean asking two diverse clients to serve on a hiring committee and offering them compensation, a discount, or in-kind services for their labor. If you are a medium to large institution, it might mean creating a diverse HR team first and pulling from across units to ensure there is diversity on the committee.

Writing the Call

I never knew that it was possible for a job description to go viral, but that is what happened with OCAD'Us Black Cluster Hire call. What do I mean by viral? A former student texted me to let me know that within the hour of its release on social media, five people had sent the call to him telling him to apply. The call went viral not because of where we placed the advertisements. Job Bank, LinkedIn, Academica, CAUT, and Chronicle of Higher Education was not where people found it. In fact, the call made its way through mostly social media: Facebook and other Black design networks and closed group, BlackTwitter, and interviews with local Black newspapers, ByBlacks and the Source. These are the places where I personally sent the call. And in the Black tradition of call and response, when I sent out the call that spoke to us Black folks directly, the community responded. And what they were responding to is being seen and understood. Here is a screenshot of the Black Cluster Hire call (see Figure 4.2 at end of article).

There are four major things remarkable about it. First, I had convinced the institution to be explicit about addressing its 144 years of underrepresentation. This caused a bit of discussion with the Provost's Office and HR. They asked if I could emphasize that the cluster hire was in response to the U.N. Declaration for the Decade of Peoples of African Descent. I compromised on having the lead statement in favor of the U.N. Declaration, but the inclusion of the 144 years of neglect was crucial for building trust within the Black communities by acknowledging the structural exclusion that had taken place within the Faculty of Design. TIP: If you have neglected specific communities, be explicit about what you have failed to do in the past, because it emphasizes that you are ready to do the right thing now.

Second, it was only open to individuals that self-identified as Black peoples of African descent. This is possible because of the Special Program in the Ontario Human Rights code that allows for positive discrimination if an organization can demonstrate underrepresentation. TIP: If you are not in a place that allows for positive discrimination, other places have used specific subject- matter expertise in Black arts or specific demonstrable relationships to Indigenous communities to create space for diversity, inclusion, and decolonization. Third, it tied together Black lived experience, community connection, and their work. In earlier searches, we learned how the phrase "lived experience" reframed the expectations of all our job candidates such that they gave a more fulsome picture of who they are. For example in interviews, candidates would provide biographical information about the places where they grew up and their families. They would connect about how their identities informed the kind of work that they chose to do and for which kinds of communities. The tying together of lived experience, community, and work was beneficial in making the interviewing process more pleasurable for committee members, who felt they were getting to know very interesting people. It also set up a system in which would eliminate diverse candidates who might tick off a diversity box, but who were not connected to diverse communities, and/or did not express the relationship to their identities through their

work. This nexus of lived experience, community, and work has become important in our Indigenous cluster hires, where controversy has arisen around individuals who have claimed Indigenous heritage but do not have the relationships with those Indigenous communities to substantiate those claims. But most importantly, it has helped make sure that we were seeking deep-level diversity, which management psychologists Harrison, Price, and Bell defined in 1998, as the characteristics that go beyond the surface-level differences in race, gender, age, ethnicity to recognize differences in what Laio, Chuang, and Joshi label as “personality, attitudes, beliefs, values, and lifestyle.”⁵ TIP: The advantage of a cluster hire is that you can seek a cohort of diverse individuals whose lived experiences of intersectional Indigenous, Black, and/or other racialized identities have shaped different values and attitudes and lifestyles that you want to bring into the institution.

Fourth, what made it truly go viral is that it described what the Faculty of Design needed in terms that resonated directly with the Black communities: Black speculative futures, storytelling and representations of Black lives, and Hip-Hop aesthetics. Black people in the community reported back to me crying when they read the job description as it was the first time that they had felt seen and truly embraced as Black folks by an institution. Kestin Cornwall, one of the five final hires, described his process of reading the call as, “I saw Black speculative futures. Check. I saw Black storytelling and representation. Check. I saw Hip Hop. Check. That’s all me.” Although the original call was for three positions, at the end of the entire search process, over 140 people, of which 3/4ths of them Black, applied. Because I had spent decades being part of the Black design community, I knew the language that would resonate with us. I did some user testing at the Hue Design Summit the summer before writing the call. As designers we are supposed to specialize in knowing our audiences, but we don’t apply that to the writing of our job descriptions in an inclusive way. TIP: Use your design skills to understand the audiences you are seeking to embrace and deliver a message tailored to their interests, not just yours.

Changing the Criteria of Evaluation to Account for Systemic Exclusion

Here is the list of qualifications for the ideal candidate in the Black Cluster Hire (see Figure 4.3 at end of article).

There was an opening for more inclusive perspectives in the list of qualifications. We accepted equivalences for degrees, asked for demonstrated potential in teaching, and put a great emphasis on shared values about decolonization, diversity, equity, and sustainability. Yet, one of the learnings from the first Indigenous Cluster Hire was that we as an institution did not have a guide for evaluating candidates who did not have experience within the post-secondary sector. I also knew from previous searches how difficult it was for committees to understand which equivalencies might exist for traditional academic credentials and expectations. Thus, for the Black Cluster Hire, I wanted to prepare that guide to help the committee.

In analyzing the qualifications in the position description and specifically the language of the Memorandum of Agreement, I made explicit that we had a bias for a specific persona type: the traditional academic who was already embedded in post-secondary systems of design education. For education, the ideal academic candidate would need a master’s degree as a terminal degree. For teaching, they would have to have taught a minimum of 2 years in the post-secondary sector. For relevant experience, they would have had to show grants, conference presentations, journal, and book publications. All of which does not take into account the systemic exclusion of diverse peoples, especially Indigenous and Black people, from the post-secondary sector. The CBC reported in 2017 that 63 out of 76 Canadian universities did not collect race-based data.⁶ One of the promises in the post-2020 landscape is for universities to collect and maintain this data. But based on Ceros’ crunching of the numbers from the AIGA and Google’s 2019 report on diversity in design, only 3% of designers were Black and only 0.2% were Indigenous.⁷ With historically so few Indigenous and Black students in design education, how many candidates would have the six years of formal

design education to meet the education threshold? So, I asked myself, if you were Black and excluded from post-secondary education in design, how would you have flourished in design outside of that system?

One way to flourish would be to be a Praxis Star, a person who is doing great things in the design profession without having a formal design education and with a commitment to the design industries. In a creative city such as Toronto, there were many examples of these individuals within the Black, Indigenous, and People of Color communities. At the time, I was thinking of the Black Canadian award-winning video, film, and television director, Julien Christian Lutz (professionally known as Director X) who started out as a graphic designer and learned his trade through industry. Because OCAD University started as a technical college, there were examples of these individuals within the Faculty of Design. The necessity was to codify their achievements and qualifications to demonstrate how they would appear outside of the post-secondary system.

I used equivalency tables from the City of Barrie, Ontario and the US-based HR consultancy, Coordinated Care Services, Inc. to determine what would be the equivalent of masters and doctoral degrees in work experience. If teaching is really about organizing and transferring knowledge from yourself to another group of people, a person who is giving design talks or workshops would be demonstrating those same skills. If relevant experience is about disseminating knowledge to wider audiences and preparing proposals that are accepted by peers, a person who gave professional talks, won small commissions or projects, or had local publications write about their work was achieving the same thing. The role of the Praxis Star within the institution would be to help connect us and especially students to the diversity of practices within the design industry.

Another way to flourish would be to be a Community Connector, a person doing great things related to design within the community because they deeply understand the systemic exclusion of diverse peoples in design. In Toronto, there were many examples of these individuals serving as youth program leaders, adult

education providers, and religious leaders. Teaching for the community connector is demonstrated through conducting community programs and workshops. Relevant experience is demonstrated through small projects, community talks, and self-published reports. Their role of the Community Connector within the institution would be to help connect us and students to the value of making with diverse communities.

In the Black Cluster Hire, I instructed the committee to not just rank the top three candidates, but to rank the top candidate within each of the personal profiles: Traditional Academic, Praxis Star, and Community Connector. The committee did this, thus ensuring that the Black Cluster Hire was dismantling structures of systemic exclusion within OCAD University (see Figure 4.4 at the end of the article).

The Provost's Office was so impressed by the slate of candidates that it accepted the hiring committee's strong recommendation to hire five faculty, not just the original three.

The expansion of the hiring criteria of evaluation to take into account systemic exclusion is now the institutional standard for OCAD University. A group of Indigenous faculty and administrators refined it even more for the second Indigenous Cluster Hire in design.

Furthermore, its principles have been enshrined in our 2021-2024 Memorandum of Agreement. Therefore, by policy, all academic hiring at OCAD U takes into account systemic exclusion.

Through my course on Teaching for Decolonization, Diversity, and Inclusion, other design firms and institutions are adopting the framework as well.

Key Take-Aways for Hiring for Decolonization:

If you are looking to hiring as the way to begin to make amends for the colonial racism and system exclusion in design, I offer some real advice:

- Make sure you are focused on decolonization by putting Indigenous demands first in your DEI hiring plans.
- Stop seeking the supertoken and focus on addressing the systemic exclusion, which only allows supertokens to get through your systems.
- Accept that your firm or institutional culture and practices will change because you are ceding power to those who have different experiences, lifestyles, and attitudes.
- Write a call that embraces the community you are seeking to include by focusing on their interests and not yours.
- Change your criteria of evaluation to take into other ways in which individuals have flourished outside of your normal systems. This is where you will find creativity and innovation from their deep diversity.

OCAD UNIVERSITY
OPEN CALL FOR BLACK APPLICANTS IN THE FACULTY OF DESIGN
THREE (3) TENURE-TRACK POSITIONS

OCAD University (OCAD U) acknowledges the ancestral and traditional territories of the Mississaugas of the Credit, the Haudenosaunee, the Anishinaabe and the Huron-Wendat, who are the original owners and custodians of the land on which we stand and create.

In recognition of the U.N. Declaration of the International Decade for Peoples of African Descent, OCAD University invites applicants to three (3) tenure-track positions within all disciplines of the Faculty of Design as well as design-related Graduate Studies to address our 144 years of Black underrepresentation. This opportunity is open only to qualified individuals who self-identify as Black peoples of African Descent (including Africans and African heritage people from the Caribbean, North America and Latin America). This initiative is a special program under the Ontario Human Rights Code.

OCAD University (OCAD U), Canada's university of the imagination, provides a vibrant and stimulating environment for its faculty and students. It is an exciting time to join the OCAD U community as the University is at a key stage in its institutional transformation with the implementation of a its academic plan that articulates a commitment to decolonization, diversity, and equity.

The Faculty of Design is the largest of OCAD U's three faculties. Under an ethos of Respectful Design, it boasts six undergraduate programs: Advertising, Environmental Design, Graphic Design, Illustration, Industrial Design, and Material Art & Design (i.e. textiles and jewelry making). The design-related Graduate Programs include Inclusive Design, Design for Health, Strategic Foresight and Innovation, Interdisciplinary Art, Media, and Design; and Digital Futures.

The Faculty of Design seeks qualified Black candidates who can demonstrate how their lived experiences inform a deep commitment through their work to intersectional Black communities and whose theoretical, technical, and making/design expertise fulfills one or more of the current areas of need within the Faculty:

1. Black speculative futures in dialogue with emerging technologies and the inclusive interaction design of digital products and/or objects, services, systems, or spaces;
2. Multisensory storytelling that uses strategic and participatory design methodologies to co-create, with communities, innovative representations of Black lives; and/or
3. Black Hip Hop or other Black cultural aesthetics and critical making in contemporary design for business and social justice.

Figure 4.2 Excerpt from the Call and Position Description for the OCAD University's Black Cluster Hire

QUALIFICATIONS

The ideal candidate will have:

- a terminal degree in relevant discipline(s) or equivalencies in Black knowledge systems; exceptions may be considered on the basis of outstanding career achievement;
- demonstrated ability or potential to teach at the post-secondary level and show an aptitude for innovative curriculum development and delivery; previous experience teaching in interdisciplinary programs and experience teaching and supervising graduate students will be considered assets;
- a proven record of research and/or professional practice relevant to qualifications, work experience, discipline, and lived experiences that inform a deep commitment to intersectional Black communities;
- experience in proactively advancing decolonization, diversity, equity and sustainability in curriculum, teaching, scholarship, and creative/professional activities;
- demonstrated understanding of the ways in which diversity, equity, Indigenous knowledge, Black knowledge, and sustainability are fundamental to the quality of student experience, to innovative scholarship, and to design praxis;
- a proven record of promoting a respectful and inclusive work and learning environment for students, staff, faculty, and wider communities.

REMUNERATION

Salary and rank will be commensurate with experience and qualifications with access to full benefits, and pension contribution after one year of service.

APPLICANT INFORMATION

Applications should include:

- a letter of intent stating the candidate's interests in (a) the areas of teaching related to OCAD U's design programs, (b) research/professional practice related to the listed areas of need 1, 2, and 3 above and (c) service to Faculty- and University-wide governance;
- a curriculum vitae;
- a statement of teaching philosophy that responds to the profile of the position;
- a statement of approach to decolonizing design praxis for Black communities;

Figure 4.3 Excerpt of the Qualifications in the Position Description for OCAD University's Black Cluster Hire

BLACK CLUSTER HIRE PROFILES CRITERIA OF EVALUATION Draft Proposal				
		Traditional Academic (fully embedded in post-secondary institutions)	Praxis Star (limited access to or exclusion from post-secondary institutions)	Community Connector (experiences of exclusion from post-secondary institutions)
Education	a terminal degree in relevant discipline(s) or equivalencies in Black knowledge systems; exceptions may be considered on the basis of outstanding career achievement;	MEET (2pts): Masters in relevant design field, PhD in related field EXCEED (3pts): PhD in relevant design field	MEET (2pts): Bachelors + 4 yrs wk, Diploma + 8 yrs wk, 0 + 13 yrs wk EXCEED (3pts): 13 + yrs work in field	MMEET (2pts): Bachelors + 4 yrs wk, Diploma + 8 yrs wk, 0 + 13 yrs wk EXCEED (3pts): 13 + yrs work in field
Teaching	demonstrated ability or potential to teach at the post-secondary level and show an aptitude for innovative curriculum development and delivery; previous experience teaching in interdisciplinary programs and experience teaching and supervising graduate students will be considered assets;	MEET (2pts): 1-2 years teaching in post secondary (could be part time) OR served as a TA in courses for two or three years EXCEED (3pts): More than 2 years teaching in post secondary OR less than 2 years teaching in post secondary with graduate supervision	MEET (2pts): 3 to 4 years giving design/media workshops to adults and/or talks to audiences. EXCEED (3pts): 2-3 years of giving design/media workshops to college and/or Universities students	MEET (2pts): 3-4 years in community leadership/education role. Could be actively participating/leading youth creativity programs or adult education workshops. Could include religious education roles in community (Sunday school teacher, pastor, Imam, etc.) EXCEED (3pts): 5+ years in community leadership/education role in a creative field.
Relevant Experience	a proven record of research and/or professional practice relevant to qualifications, work experience, discipline, and lived experiences that inform a deep commitment to intersectional Black communities;	MEET (2pts): Record of research that responds to one of the three themes (Black speculative futures, Multisensory story telling of Black lives, and Hip Hop Aesthetics) in the form of small grants, conference presentations, and journal/book publications. This record should demonstrate impact to their localized community or area of expertise. EXCEED (3pts): Record of research that responds to one of the three themes in the form of large grants, conference organizing, and two or more publications per year. This record should demonstrate impact to their localized community or area of expertise.	MEET (2pts): Record of professional practice that responds to one of the three themes (Black speculative futures, Multisensory story telling of Black lives, and Hip Hop Aesthetics) in the form of small commissions/projects, local professional talks, and local publications written about work. This record should demonstrate impact to their localized community or area of expertise. EXCEED (3pts): Record of professional practice that responds to one of the three themes (Black speculative futures, Multisensory story telling of Black lives, and Hip Hop Aesthetics) in the form of large commissions/projects, national professional talks, and national publications written about work. This record should demonstrate impact to their localized community or area of expertise.	MEET (2pts): Record of community practice that responds to one of the three themes (Black speculative futures, Multisensory story telling of Black lives, and Hip Hop Aesthetics) in the form of small projects, community meetings/workshops to share results, and self-published reports or testimonials of the good work. This record should demonstrate impact to their localized community or area of expertise. EXCEED (3pts): Record of community practice that responds to one of the three themes (Black speculative futures, Multisensory story telling of Black lives, and Hip Hop Aesthetics) in the form of large projects, community meetings/workshops to share results, and funded reports or government testimonials of the good work. This record should demonstrate impact to their localized community or area of expertise.

Figure 4.4 Three Profiles' Criteria of Evaluation for OCAD University's Black Cluster Hire

Education and Economic Inequality

BY ADEL ALAMO (she/hers/ella/suya)

.....

I didn't have the privilege to go to college when I graduated from high school. It's not that I didn't want to go, or that I wasn't capable academically, I just couldn't go financially, and I knew it.

I am the first American born generation of immigrant parents, and the first to graduate high school; a feat in of itself. My grandfather was forced to drop out in the eighth grade to start working in order to help support his eight siblings. My grandmother had to leave school after she completed the sixth grade to help her mother raise and care for her five older brothers. Pursuing an education was not a priority when there was a large family to support.

My aunt and mother were 15 and 13 when my grandparents immigrated to this country. They did well in school, but at the age of 17 my aunt became pregnant and dropped out of high school with just a year to go. My grandparents feeling the added burden of our burgeoning family insisted my mother leave school as well and work at the family business, a dry cleaners in Queens, New York, in order to pitch in and help support the new baby.

By the time I was in high school, my mom had her own business, a dry cleaners in Miami, FL, which she ran with the support of my grandparents and other family members.

Although I excelled in school, maintained straight A's in all of my classes, and loved to learn, my family never encouraged me to pursue a higher education. They valued work over education, because it was all they ever knew. My family never questioned if I intended to go to college, because it was assumed I would not. They knew they couldn't pay for it, and so it was a moot point.

They wanted me to enter the work force full time, preferably as part of the family business. After all, it was already expected for me to work there every day after school, often until 10 pm or 11 pm at night, and work every weekend. Homework, school projects, and recommended reading were to be done on my own time, or during slow periods at the dry cleaners. Because of this or in spite of it, I still managed to graduate in the top 10% of my class.

While most of my friends were visiting college campuses, taking (and re-taking) their SAT tests, and stressing over college applications, I was working. I didn't even consider college as a viable option for my life. It felt that out of reach. The college I wanted to attend, NYU, had an average annual tuition of \$25k per year, even state college was somewhere in the neighborhood of \$7k per year. I couldn't fathom it.

Even if I had been able to obtain a scholarship, I would never have been able to afford books, room and board

and all the rest of it, especially without the support of my family.

According to the most recent Edward Jones poll (<https://www.prnewswire.com/news-releases/two-thirds-of-americans-still-do-not-know-what-a-529-plan-is-according-to-edward-jones-study-300082537.html>), a whopping 83% of Americans believe that they can't afford the current cost of college for their children. Although a wide range of strategies exist to plan and save for college, 2/3 of people polled lacked awareness that these programs exist.

In cases like my family, we lived hand to mouth. We were lucky we never went hungry, but my grandparents and mother never had retirement savings plans let alone, college savings funds for us kids. We were expected to work to support the family when we graduated, or in the very least support ourselves.

For families like mine, the overwhelming cost of college means that either they and/or their kids are committing themselves to decades long debt, or they have to enter the workforce without a college education. Neither of those are optimal options.

More and more organizations are requiring a minimum of a bachelor's degree for every position, including entry level jobs. I understand that if you aspire to be a doctor or an engineer, you need a college education, but the average entry level position should not require one. This is frightening to me not just because it personally affects me, but because it is a policy that inadvertently widens the gap between the haves and the have nots. Requiring a college degree for a non-specialized job is in fact adding to the socioeconomic disparity and inequality in this country.

Organizations cannot claim to promote diversity, inclusion, and equality when they require a college degree for non-specialized positions. It perpetuates the cycle of poverty for those that were unfortunate to have been born into a lack of privilege. A college education is not free, and until it is, it should not be the threshold for opportunity.

A college education is not free, and until it is, it should not be the threshold for opportunity.

The unexceptional and impoverished do not have the same opportunity to attend college as the affluent and middle class. By making the barrier of entry to a good paying job a college education, you are creating an insurmountable economic obstacle to overcome in a single lifetime.

Hiring Managers, CEO's, Board Directors, or anyone else in power who is listening, please help stop this cycle of debt and destitution.

According to recent census data, 66% of people aged 25-69 do not possess a four year college degree; 2/3 of working aged Americans do not qualify for bachelors degree required jobs. For the 34% that do, the average cost for a four year college degree is approximately \$144k; \$205k total over a 20 year loan, when you calculate the interest at the current rate of 3.7%. That translates into \$850/mo in student loans. It seems like I need a bachelors degree to get a high paying job, but I need a high paying job in order to afford a bachelors degree.

I need a bachelors degree to get a high paying job, but I need a high paying job in order to afford a bachelors degree.

A recent article (<https://revealnews.org/article/who-got-rich-off-the-student-debt-crisis/>) which made it to the front of Consumer Reports magazine explains the debt crisis better than I can. Most startling is the fact that one of the people featured in it claims they "kind of ruined [their] life by going to college." Looking at these startling figures, I can see why.

Ask yourselves are you getting more qualified candidates by setting these standards? Are they quicker to learn on the job, more apt to be able to work as a team or independently? Is your turnover reduced because you're only hiring college grads? Are they more creative, more dedicated, more knowledgeable? What is the advantage other than creating an arbitrary line in the sand in order to make the hiring process easier for your HR teams?

It seems like the system is rigged. As a society we shouldn't accept hundreds of thousands of dollars worth of debt as a threshold for greater opportunity. Those that were not born into privilege are afforded lesser opportunities in order to gain wealth and break the cycle.

I didn't go to college. However, that doesn't mean I'm not educated, or lack critical thinking skills, or problem solving skills. It doesn't mean I'm not dedicated, it doesn't mean I won't make an excellent employee. It simply means I was unable to be part of a system that's put me and 66% of Americans at an automatic disadvantage. It's put the other 34% into \$1.3 trillion worth of student debt.

It's time to either make college free or find more comprehensive methods to evaluate potential candidates. Without one or both, you simply cannot claim diversity, inclusion, and equality. Moreover, you're contributing to a system and a cycle that puts the average American at best in debt and at worst in destitution.

Setting Job Requirements

GOVERNMENT OF ONTARIO

.....

a) Make sure that job requirements are reasonable and made in good faith

All jobs include performing certain tasks that may be considered requirements. A requirement, qualification or factor that is neutral and non-discriminatory on its face, may nonetheless exclude, restrict or prefer some persons because of a ground set out in the *Code*. This is often called “adverse effect” or “constructive” discrimination and is prohibited under section 11 of the *Code*. See also Section III-2g) – “Workplace rules that are not *bona fide*.”

Example: An employer has a rule that male employees must be clean-shaven. This rule results in the employer refusing to hire a Sikh man.

This rule is not intended to exclude Sikh men (who as a part of their religion are not allowed to shave) from employment, but it has this effect and therefore would be considered discriminatory.

If a person is prevented from meeting job requirements for a reason that is related to a ground in the *Code*, human rights law looks at whether these requirements are reasonable and *bona fide* (*bona fide* means “good faith” or “genuine”). This assessment includes determining whether the rule was designed inclusively and whether it would be possible to accommodate, without causing undue hardship.

Example: Even if the rule requiring employees to be clean-shaven is shown to be reasonable and *bona fide* (the rule is rationally connected with performing the job, and the rule was established in good faith), the employer will only be able to insist that Sikh men observe the rule if creating an exception will cause undue hardship to the employer. In this example, the business objective may be to ensure hygiene when preparing food. However, Sikh men can easily be accommodated by allowing them to wear a net to cover their beard, which should not cause the employer undue hardship.

Some requirements may be directly discriminatory and yet not violate the *Code*, if the employer can show that it is a reasonable and *bona fide* occupational requirement.

Example: A health club has a requirement that staff in a men’s locker room must be men. This requirement would likely meet the test for a reasonable and *bona fide* occupational requirement.

i) Test for *bona fide* requirement:

Whether the discrimination is direct or by adverse effect, the Supreme Court of Canada has set out the same three-step test for justifying a discriminatory standard, factor, requirement or rule as a *bona fide* requirement.^[38] The Commission applies this test for all grounds and discusses this in detail in many of its policies.

When a human rights claim alleging discrimination is filed, the respondent must establish on a balance of probabilities that the standard, factor, requirement or rule:

1. was adopted for a purpose or goal that is rationally connected to performing the job
2. was adopted in good faith, in the belief that it is necessary to fulfill a legitimate work-related purpose
3. is reasonably necessary to accomplish the work-related purpose. To show that the standard is reasonably necessary, employers must show that it is impossible to accommodate individual employees sharing the characteristics of the claimant without imposing undue hardship upon the employer.

As a result of this test, the rule or standard must be inclusive and must accommodate individual differences up to the point of undue hardship. It is not enough to maintain discriminatory standards and supplement them by accommodating people who cannot meet them. This means that each person must be assessed against his or her own personal abilities, instead of being judged against presumed group characteristics.

Example: A manager must leave work at 5 p.m. to care for her young children. The employer often has senior managers' meetings after this time. Such a practice has a negative impact on managers with child-care responsibilities.

Example: An employee's mother has developed Alzheimer disease and needs greater care and assistance. The employee needs to take time during normal business hours to arrange home care in the short term and nursing home placement for the longer term. While the employee only needs a few mornings a week to arrange for care, the employer's policy requires that personal leave must be taken in full days.

ii) Taking a proactive approach to bona fide requirements:

In some cases, differential treatment linked to a *Code* ground may be legitimate if the employer can show that it is a *bona fide* occupational requirement.

Example: A woman who was seven months pregnant was denied a job as kitchen help in a restaurant. The human rights tribunal heard evidence that the job would be physically demanding. As the woman had never performed these kitchen duties before, she would not know the extent of the physical requirements expected for this job. The tribunal was satisfied in this case that it was likely that not being in the later stages of pregnancy was a reasonable occupational requirement.

Rather than wait for rules to be tested through human rights claims and allegations, a best practice is for new and existing job requirements to be assessed to make sure they will not have a discriminatory impact and are necessary for performing the essential duties of the job. This section provides tips to help employers proactively comply with the *Code* when putting in place new standards, factors, requirements or rules.

As a best practice, before implementing a standard, factor, requirement or rule, an employer will assess it according to the standards set out by the Supreme Court of Canada and reflected in the Commission's policies. Employers can consider the following questions and factors, among others:

- For what goal or purpose is this rule or standard being adopted?
- Is the goal or purpose rationally connected to doing the job?
- Why is the rule or standard being adopted?
- Is it being adopted in good faith?
- Is it reasonably necessary to meet a legitimate work-related purpose? A standard will not be considered reasonably necessary unless the employer can show that it would be undue hardship to accommodate individual employees sharing the characteristics of the claimant.
- What alternative approaches are there?
- Have these been fully investigated?
- Are there alternative approaches that do not have a discriminatory effect? Do these approaches meet the employer's purpose?
- Is there a less discriminatory way to meet the standard and accomplish the employer's legitimate purpose?

- If alternative non-discriminatory approaches that fulfill the employer's purpose exist, why can they not be used?
- How can the standards be designed to comply with the Code?
- Could standards that reflect group or individual differences and capabilities be set up?
- Is the standard properly designed to make sure the desired qualification is met without placing undue burden on the people it applies to?
- Does the standard incorporate the concept of accommodation?
- Is accommodation being provided to the point of undue hardship?
- Have other parties who are obliged to assist in the search for accommodation fulfilled their roles?

Records on these types of assessments of rules and standards, including efforts to assess and achieve accommodation, should be retained. These records would be relevant when determining whether the rule and standards are discriminatory if any human rights concerns are raised.

It is also important to make sure that any *bona fide* requirements, policies or rules relevant to the selection criteria are kept up to date once they are put in place. For example, a policy that has been in place for so long that nobody remembers why it was created in the first place is vulnerable to challenge on the basis that the employer does not have a belief that it is connected to performing the job (the second part of the *bona fide* requirement test).

iii) Requirements that are not *bona fide*:

Some requirements will not be considered to be reasonable or *bona fide*. Examples include requirements that:

- relate to incidental duties instead of essential parts of the job
- are based on co-worker or customer preferences and exclude persons because of grounds protected in the *Code*

- rely on stereotypical assumptions linked to *Code* grounds, such as disability, race or sex, to assess an individual's ability to perform the job duties. For example, a position that requires child care workers to be women is unfair to men who are also qualified for the position
- state that the job must be performed only in a certain way even though reasonable alternatives may exist.

Example: A human rights tribunal found that an employer discriminated against a female employee when it refused to employ her in a section of the company that processed certain gases. The employer defended its action on the basis that, from time to time, accidental emissions may be harmful to women of child-bearing age or to a fetus. The tribunal found that the risk of harm to a fetus from the accidental emission of the gas was minimal. As well, the scientific research did not support the company's concerns. The tribunal noted that any woman who knows she is pregnant, or who intends to become pregnant, could be transferred from this section until after she has given birth.

b) Identify and clearly describe essential requirements

Having a clearly defined job description and an understanding of the essential requirements of the job provides a solid basis for designing rules and standards, providing accommodation, assessing the performance of applicants and employees, and making decisions on hiring, promotions, discipline and termination.

Organizations that have not defined the essential duties of a position, provided required accommodation and individually assessed ability to perform the essential duties will have difficulty defending themselves if a human rights complaint is filed.

This is because section 17 of the *Code* says that the right to equal treatment is not infringed when a person is treated differently because she or he is incapable of carrying out the essential duties or requirements of the position because of disability, after the person has been accommodated short of undue hardship.

The employee has a duty to co-operate with the employer in investigating options for accommodation. The employer must go beyond determining the employee's limitations and focus on the duties that the employee is able to perform.

Employers are expected to re-assign non-essential tasks and to accommodate to the point of undue hardship related to the essential duties of the position. If, after being accommodated to the point of undue hardship, the person still cannot meet the essential requirements, it is not discriminatory for the employee to be re-assigned to another position that better meets his or her accommodation needs.

A job may contain many elements, some of which are essential to doing the job, and others that are ideal or preferable, but not essential. The best practice is to list essential duties in a job description, and clearly state them when advertising the job. When developing a job description, it is prudent to consider the necessary or essential physical requirements, including physical demands, and provide this information to job applicants. The essential requirements must be determined objectively and not be designed to avoid the principles contained in the Code. Employers should be able to show why a certain task is either essential or non-essential to a job.

With time, a job can change. This may result in adding new responsibilities that may be either essential or non-essential. When preparing for a hiring process, an employer may consider the following questions:

1. Is the job description current or does it need to be updated?
2. Does the job description accurately reflect the needs and expectations of the employer?
3. Which are essential requirements and which are non-essential?

When assessing whether a particular task or duty is essential, an employer can consider:

- How often is the duty performed?
- How much time is spent on each duty?

- How does the duty fit with the others performed in the job?
- How would the job change if the duty were removed?

c) Think about stress when designing jobs

Experts estimate that stress contributes to 19% of absences from work and costs Canadian employers \$3.5 billion each year.^[39] Experts and researchers have identified that certain types of jobs are associated with higher levels of stress. This, combined with other stresses, can lead to disabilities or heighten the need for major Code-related accommodations that could have been avoided in other circumstances.

Example: An employee, whose mother is in a long-term care home, has difficulty balancing her care-giving responsibilities with her job. She has little control over her work tasks and is constantly being given rush assignments at the end of the day. Almost daily, she works a full day, goes to visit her mother and then works from home until late in the evening to finish her task assignments for the next day.

The employer's position is that the office is too busy to allow her to cut back her hours. Employees are also discouraged from claiming overtime – the employer's view is that employees who are doing overtime are just not productive enough during regular hours. The employee is a top performer but feels that her contributions are not valued and that she is not meeting expectations. She becomes increasingly stressed by the rising workload and lack of accommodation. This is magnified by the total absence of recognition or appreciation. She goes off on an extended sick leave.

While some jobs are necessarily more stressful than others, an employer can take steps to eliminate unnecessary stresses when designing a job, or put in place measures to help employees deal with stresses caused by the job – see Section IV-8e(viii) – “Stress-related accommodation requests.”

Research summarized by Mental Health Works shows that excessive stress may arise in jobs with the following work conditions:^[40]

- high demand/low control jobs
- the employee has constant imposed deadlines over a long period
- the employee has limited control over how their day-to-day work is organized
- deadlines and limited control can lead to increased disability claims due to double the rate of heart and cardiovascular problems, higher rates of anxiety, depression and poor morale, higher drug and alcohol use, and increased vulnerability to infectious diseases
- high effort/low reward jobs
- require high physical or mental effort.
- offer little pay, status, financial gain or career enhancement
- can lead to triple the rate of cardiovascular problems, higher rates of depression, anxiety and conflict-related problems
- jobs that are both high demand/low control and high effort/low reward can lead to:
 - double the risk of death from heart disease
 - high cholesterol and body mass index
 - higher incidence of back pain (three times that of high control/high reward conditions)
 - higher incidence of repetitive stress injuries (could be up to 150%)
 - over five times the normal rate of colorectal cancer (when combined with other workplace stressors)
 - accidents on the job (directly or indirectly)
 - increased conflict between co-workers.

d) Potentially discriminatory requirements

This section shows requirements that could lead to discrimination claims, and that should not be included in a hiring process without careful thought:

Functional fitness assessments: Applicants should not have to undergo a fitness assessment unless:

- the requirement is made in good faith and inclusively designed

- it is rationally connected to performing the essential duties of a job
- accommodation is built into the assessment.

Testing and simulations: Any tests and simulations should be reasonable and bona fide to be reliable indicators of job performance. For example, psychometric and psychological testing may favour the dominant culture. A written test for a job that does not need writing skills may screen out persons who speak English or French as a second language.

Non-essential physical demands: No matter what the job, every job has a physical aspect to it. Activity may range from something sedentary, like sitting at a desk and looking at a computer screen, to something very physically active, like driving a delivery truck and lifting heavy packages. Physical demands that are not essential should not be included in a job description or used as a basis for evaluating applicants.

Example: A company is looking for computer salespersons. The job description states that the person who fills the position must be able to lift 20 kilograms, the weight of the computers and related equipment. If the person is being hired as a computer salesperson, knowledge of computers and information technology is essential, but the ability to lift and deliver computers would likely not be essential and should not be included in the job description or used to screen out applicants.

Requirement to have a driver's licence: A driver's licence contains personal information about a person such as age or disability. This could allow the employer to assess applicants according to a prohibited ground of discrimination. Employers should identify the jobs where driving is an essential requirement and make sure this is included in the job description.

Language and fluency: A job description that requires a certain level of fluency in English or any another language, or prohibits an accent, may be discriminatory if these are not bona fide requirements for performing the job.

When an employer identifies “proficiency” in a language as a requirement, it must be reasonable and bona fide. It must meet the test set out above. The requirement must focus on the particular language needed in the job, and not on the place of origin, ancestry, ethnic origin or race of candidates for the job.

Example: An immigrant settlement agency that serves persons from South Asian countries needs support workers. Most of its clients have recently arrived in Canada. Fluency in one or more South Asian languages as well as English or French would likely be considered a bona fide job requirement.

There may be an exception under subsection 24(1)(a) of the *Code* if the employer is a special interest organization.

“Canadian experience:” A requirement for Canadian experience may limit applications from recent immigrants, and could result in discrimination on the basis of race, place of origin or ethnic origin. All prior experience should be assessed, regardless of where it was obtained. In many cases, there are easy ways to assess a person’s skills and abilities without having to contact a Canadian reference or insist on Canadian experience.

Example: An employer is looking for a typist/receptionist. Even if the person received their training in another country, there are several options available to verify skills, including standardized testing (typing tests, for example), letters of reference or probationary periods.

Inflated job requirements: Inflated job requirements pose discriminatory barriers for racialized applicants and others such as people with disabilities. An example is requiring a university degree when a high school diploma would do.

Specifying desirable personality traits: This approach can screen out or discourage persons identified by the *Code*. In some cases, the terms used may be seen as euphemisms for criteria that would be prohibited under the *Code*. For example, stating that sales people

must be “aggressive” could screen out racialized women, and saying people must demonstrate “career potential” could screen out older applicants.

The employer should avoid stating that an applicant has to be in “good physical condition” to be successful, even if there is a bona fide requirement that an applicant take a fitness assessment.

Frequent travel: If employees have major caregiving responsibilities, their ability to travel regularly or extensively may be limited. When travel is included in a job description, it must be an essential duty that is a bona fide requirement. When it is not, employees should not be denied opportunities because their caregiving responsibilities prevent them from regular or extensive travel. When travel is an essential job duty, the employer would be expected to accommodate the family- status needs of employees.

Recent graduates or students: A requirement that an applicant be a recent graduate or a student may limit applications from older workers. This may amount to discrimination on the basis of age, unless such requirements are bona fide connected to a special program or a *Code* exemption applies.

Citizenship requirements: Section 16 of the *Code* allows an employer to discriminate based on citizenship in three very specific situations:

- when citizenship is a qualification or requirement imposed or authorized by law
- when the requirement for Canadian citizenship or permanent residency in Canada has been adopted to foster and develop participation in cultural, educational, trade union or athletic activities by Canadian citizens or permanent residents
- when the employer imposes a preference that the chief or senior executives be, or intend to become, Canadian citizens.

The employer should include any of these citizenship requirements in the job description to avoid any misunderstandings by applicants. But see “Citizenship” in the section on grounds.

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FOOTNOTES

{38} In Meiorin supra note 6, the Court considered whether a fitness test, which was found to indirectly discriminate against women, was a bona fide occupational requirement for a forest firefighter.

{39} Statistics summarized by Joan Burton, Industrial Accident Prevention Association, The Business Case for a Healthy Workplace, online: www.iapa.ca/pdf/fd_business_case_healthy_workplace.pdf

{40} Mental Health Works, online: www.mentalhealthworks.ca/employers/faq/question3.asp

7 Examples of Racial Bias in Job Descriptions

Heather Barbour Wyatt

[Racial bias in job descriptions](#) can be unconscious, but it happens quite often.

Here are 7 examples of racial bias [Ongig's Text Analyzer](#) finds when scanning our clients' job descriptions.

1. Bias Against Black Candidates

There are some obvious and not so obvious phrases that cause racial bias (or hidden bias) against Black candidates in job descriptions. For example, the word “blacklist” or “blacklisting” is a term used in cybersecurity job descriptions. A blog from Finjan Cybersecurity [defines blacklisting](#) as:

“... a computer blacklist details known malicious or suspicious entities that shouldn’t be allowed access or running (execution) rights, in a system or network.”

Companies like Amazon and Twitter are replacing blacklist with words like “reject list” or “block list” to avoid racial bias, specifically against people of color. Another popular phrase is “brown bag session” or “brown bag lunch” which companies use to describe learning sessions in their job descriptions. But, the [“Brown Paper Bag Test”](#) has a history related to racism and colorism.

The screenshot shows the Ongig platform interface. On the left is a sidebar with various tools: Dashboard, Competitors, Jobs, Exclusionary, New Job, CAREER SITE BUILDER, Jobs, Media, Page Builder, Analytics, Comments, and Settings. The main area is titled 'Job Description' and shows a job listing for 'Java Architect'. Below the title is a text editor with a toolbar above it. A tooltip is displayed over the word 'Exclusionary' in the list of bullet points under the heading 'B I U ⌂'. The tooltip content is: 'Exclusionary: Some people might feel excluded by this depending on the context. You might want to delete or replace with a more inclusive word.' The tooltip also lists three options: 'lunch and learn', 'learning session', and 'Delete'. The text in the editor includes 'lunch and learn', 'learning session', and 'brown bag sessions' (which is highlighted with a red box).

Similarly, “Cakewalk” is a racially-biased phrase that has been found in job descriptions. If something is referred to as a “cakewalk”, it is considered to be an easy task. This phrase contains hidden bias and according to NPR the [cakewalk](#) was:

“a pre-Civil War dance originally performed by slaves on plantation grounds.”

2. Bias Against the Latin Community

As you can see in the image below, using the word “Latino” or “Latina” in a job description may make certain individuals feel excluded depending on the context.

The word Latino implies masculinity and the word “Latina” implies femininity. This is a form of hidden bias.

The screenshot shows the ONGIG Text Analyzer interface. On the left, there's a sidebar with various tools like Dashboard, Competitors, and a New Job button. The main area is titled "Job Description" and shows a job listing for "Software Engineering Intern". Below the title, there's a "Requirements:" section with a bulleted list. A tooltip box appears over the word "Latino" in the list, stating: "Exclusionary: Some people might feel excluded by this depending on the context. You might want to delete or replace with a more inclusive word." The tooltip also includes a "Latinx" option and a "Delete" button. A large red arrow points from the bottom right towards the "Latino" word in the tooltip.

Software Engineering Intern

Requirements:

- Must have an interest in
- Applicants must be me
- Must have an interest in software engineering
- Must be willing and able to work from home with a reliable internet connection and a distraction-free environment
- You're curious to learn the craft of solving problems with technology
- You've programmed a computer in a language like Ruby before, and you don't

A more widely and less biased phrase (both gender and race bias-related) is “Latinx”. [LeveL magazine](#) says:

“Using ‘Latinx’ Makes Us More Inclusive”

Other phrases to avoid that are biased towards the Latinx community are “spic” (short for Hispanic) or “wetback” (a racial slur against people from Mexico).

As we wrote about in this article about [racist brands](#), Proctor & Gamble is retiring the name of its “Spic and Span” cleaning product due to the brand’s origins rooted in racial hatred of the Latin community.

3. Bias Against Asian Candidates

Bias against Asian candidates in job descriptions is likely unconscious (or hidden bias), but using words like “Oriental” or “Orientals” is discouraged due to racial undertones.

Engineers at Amazon even added this phrase to their recently created [internal Wiki](#) which is geared towards removing various racist terms.

The screenshot shows the Ongig Text Analyzer interface. On the left sidebar, there are sections for 'TEXT ANALYZER' (Dashboard, Competitors, Jobs, Exclusionary, New Job) and 'CAREER SITE BUILDER' (Jobs, Media, Page Builder, Analytics, Comments, Settings). The main area is titled 'Job Description' and contains a job posting for 'Grad Student Instructor'. The text discusses the history and perception of samurai. A red arrow points to a tooltip for the word 'oriental', which is flagged as 'Exclusionary'. The tooltip provides context about how the word might be perceived as exclusionary and offers alternative words like 'asian', 'asian american', or 'Delete'.

Another racist phrase that is biased against Asian candidates is “Long time no see”. This phrase dates back to an old Chinese phrase, and could be offensive to people of Asian descent and should be replaced by “it has been a while.”

All of these biased phrases are flagged as “exclusionary” and have alternative phrase suggestions in Ongig’s [Text Analyzer](#) tool.

4. Bias Against English as a Second Language Candidates

Being fluent in a language does not mean you have to be “native” to that country. Job descriptions that use “English Fluency Level: Native”, “Native English Speaker”, or “English Native Speaker” exclude a person who speaks English as a second language. A more inclusive option is “Fluent in English” or “Proficient in English” if you want to remove potential hidden bias.

The screenshot shows the Ongig Text Analyzer interface. The left sidebar includes sections for 'TEXT ANALYZER' (Dashboard, Competitors, Jobs, Exclusionary, New Job) and 'CAREER SITE BUILDER' (Jobs, Media, Page Builder). The main area displays a job description for 'Sales Manager, U.S.'. A red box highlights the phrase 'English Native Speaker', which is flagged as 'Exclusionary'. A tooltip explains that this phrase might feel exclusionary and suggests alternatives like 'Fluent in english', 'Proficient in english', or 'Delete'.

This also applies to languages other than English. For example, someone who is not born in Germany

may still qualify as “Fluent in German”.

5. Bias Against Immigrants

You will see in the job description below for an experienced painter, a job requirement is “No Illegals”, which is biased against immigrants. A more acceptable phrase would be “no undocumented immigrants”.

Experienced professional painter



Responded to 75% or more applications in the past 30 days, typically within 1 day.

Apply Now



Experienced residential painter

No Sub contractors, No illegals



clean quality work required, must have vehicle and license. Pay commensurate with ability, .

Job Type: Full-time

There are quite a few racially-biased phrases related to immigrants in job descriptions. Some examples:

- Anchor baby
- Illegal Immigrant
- Migrant
- Illegal/Illegals

To remove bias these phrases should be replaced with:

- a child born to an undocumented immigrant, child born to a refugee (instead of Anchor baby)
- an undocumented immigrant, a refugee (instead of Illegal immigrant)
- refugee, immigrant (instead of Migrant)
- a person born in..., an immigrant, an undocumented immigrant, a refugee (instead of Illegal or Illegals)

6. Racial Bias of Indigenous Descent Groups

We also found racially biased phrases related to groups of people of Indigenous descent. The phrase in the job description below mentions having the “ability to sell ice to an Eskimo”, the word “Eskimo” has racial undertones and hidden bias so this phrase could be frowned upon by Indigenous groups. Removing this phrase or using “Inuit” when referring to “Eskimo people” is less offensive, and much more inclusive.

Great to haves:

- Ability to sell ice to an Eskimo

What we'll do for you:

- Provide a great place to work – you'll want to show up and give your best self everyday, we promise
- Allow you to crush it – by providing you the best training programs in the industry
- Boost your wardrobe – visa gift cards to shop for work clothes at a variety of well-known retailers

Employment Type
Full-time

Job Functions
Sales , Customer Service , Administrative

Another word with racial undertones is “Indian”. The more proper (and inclusive) phrase to use in the United States is “American Indian”. Other acceptable phrases are “American Indians” and “Native Americans”.

7. Affinity Bias

Affinity bias is when we have the tendency to gravitate towards someone who reminds us of ourselves. A commonly seen instance of affinity bias in job descriptions is the “Top School” requirement.

Companies are posting job descriptions that require candidates to have a degree from an “Ivy League University” or a “top engineering school” as seen in the job posting below from [Indeed](#).

Sr. Product Manager (Tech)

Amazon.com Services LLC ★★★★☆ 63,864 reviews - Seattle, WA

[Apply On Company Site](#)



- MBA from top business school and a BS in Computer Science or related technical field from a [top engineering school](#).
- Experience developing mobile products, especially ones which have cracked the top 100 mobile apps.

A career consultant from North Carolina, Latesha Byrd, was recently interviewed by the Charlotte Business Journal about the [fight against systemic racism](#). Byrd said:

“We tend to warm up to people who look like us, who talk like us, who have a similar background to us, and that creates its own challenges...We are less likely to extend an offer to someone we don't have a lot in common with...In a professional setting, this can create disparities from the get go, especially in deciding who gets hired or promoted. Removing bias in a process that automatically puts African Americans at a disadvantage if most managers and recruiters are white is crucial.”

Affinity bias is also commonly called “elite bias” and causes exclusion during the hiring process. Instead of asking candidates to have a degree from an elite university, requiring a degree in a specific field is much more inclusive. [See our article [Elitism in Hiring: Who Needs Harvard?](#) for more about elitism in hiring]

If you enjoyed this article, check out [5 Examples of Racial Bias in Hiring](#). It includes removing bias in candidate screening, interviews, background checks and job offers.

Why I Wrote This

[Ongig's Text Analyzer](#) software helps eliminate different types of bias from your job descriptions. We find offensive/exclusionary words and give you recommendations to replace them. We'd be happy to analyze your jobs to show you examples of the different types unconscious bias. Wouldn't you prefer to find bias *before* your candidates do!?

Thanks to these pros on racial bias:

Thanks to these useful resources for help in researching this article:

1. Lakshmi Gandhi's article on [The Extraordinary Story Of Why A 'Cakewalk' Wasn't Always Easy](#)
2. The Finjan team's article on [Blacklisting vs Whitelisting – Understanding the Security Benefits of Each](#)
3. Lucero Cantu's article on [Using 'Latinx' Makes Us More Inclusive, but It's Just the Beginning](#)
4. Eugene Kim's article on [Amazon engineers built an internal wiki page that suggests alternatives to unconsciously racist terms like 'brown bags,' 'cake walk,' and 'master/slave'](#)
5. Ashley Fayhe's article on [What steps can business leaders take in fight against systemic racism? Charlotte career consultant offers advice](#)
6. Indeed.com's [jobs page](#)
7. LinkedIn's [jobs page](#)

August 5, 2020 by in [Diversity and Inclusion](#)

Micro- & Macro-Aggressions During Interviews

Microaggressions are statements or actions that communicate hostile, derogatory, or negative messages to candidates based on their membership in marginalized group. In the university setting, these statements and actions are rarely intended to hurt or demean the candidate. Rather, “aggressors” often have no idea how their actions and statement might be affecting their unintended candidate. **In fact, you may read some of these statements and say to yourself “That is a microaggression? That is a compliment!” And that is the point.** Whether these comments are deemed offensive does depend on the individual and the context. However, if there is a reasonable chance your comment will be taken amiss by someone with a different perspective, why not make the statement in a different way or just talk about something else entirely?

The first step in avoiding accidental micro/macroaggressions is to be able to recognize them. The next step is practicing using alternative statements and behaviors such as those suggested below. Finally, becoming comfortable intervening when you witness a micro/macroaggression taking place (becoming an Upstander rather than a Bystander) will be essential in order to create a campus culture where everyone feels welcomed and where bias is avoided during decision making.

If you find statements below that you could see yourself saying or that you may have actually said at one point or another, it does not mean that you are a bad person or racist/sexist. Being unwilling to recognize racist or sexist behaviors and correct your unintentional aggressions WOULD be a problem, but we all make mistakes and acknowledging this provides an opportunity to learn and grow.

While there are categories below for organization purposes, it is important to recognize that some of these micro/macroaggressions are intersectional, affecting people negatively in more than one way.

This reference document was prepared by Dr. Aimee Edinger, Equity Advisor in Biological Sciences. Comments, suggestions, and additions to this document are welcomed: aedinger@uci.edu.

Making the Candidate Feel Alien, Different, or Out of Place

Sample Microaggressions	Messages Communicated
<ul style="list-style-type: none"> • “Where are you from? or Where were you born?” • “What nationality are you/is your family?” • “Are you a US citizen?” • Asking someone to share words in their native language • Assuming someone likes or does not like (nationality/ethnicity) food/practices • “You are (ethnicity)? I went on a vacation to (assumed country of origin) and loved it!” • Mispronouncing candidate’s name after you have been corrected (often more than once) • Developing a nickname or sharing a mnemonic that you use to remember their name • “Your name is so unique – I love it!” 	You are not American. You are a foreigner even if the US is your own country. Your racial/ethnic identity makes you weird, exotic, and/or different. You are different. You don’t really belong. People who are different are outsiders.

<ul style="list-style-type: none"> • Acting as though the candidate's name is difficult to remember • "Students might find you hard to understand given your accent – have you thought about trying to do something about that?" • "I am impressed that you hardly have an accent" • Telling racist or sexist stories or jokes during meals or private meetings, even to someone apparently of the same race/gender as yourself. 	
Alternative Approaches <p>Make small talk around subjects that would be appropriate if the individual was from the majority group and had a very common name.</p> <p>The Search Chair should ask EVERY candidate how to pronounce their name and share this (in writing) with everyone who will contact the candidate so that they do not have to continually tell everyone they meet how to pronounce their name.</p> <p>If you develop a mnemonic to help you remember how to pronounce a name, make it respectful & keep it to yourself</p> <p>Probably best to avoid commenting on someone's name, dress, or looks in any way during an interview, <i>even if you think what you are saying is a compliment.</i></p> <p><u>A general rule</u> - Keep casual conversation focused on topics that you would discuss with someone that could be of ANY ethnicity/national origin/gender/sexual orientation</p> <p>Introduce your guest as you would a speaker with a "standard" background. Allow them to bring up their nationality/gender/sexual identity if they wish – it is their story to tell.</p>	Upstander Interventions <p>If you witness any of this in real time, you could clarify for the speaker privately how their comment might be perceived and call out their behavior as inappropriate – when this is done politely, most people are very receptive and want to avoid offending others</p> <p>If you know how to pronounce the candidate's name correctly, you can correct the speaker.</p> <p>You could interrupt the interaction with the speaker by engaging in a normal conversation with the candidate that is free from microaggressions and makes them feel welcome (change the subject). You could also approach the candidate after the speaker leaves and engage in a friendly and welcoming conversation.</p>

Tokenism and Triggering Imposter Syndrome

Sample Microaggressions	Messages Communicated
<ul style="list-style-type: none"> • "We are really interested in recruiting more URM faculty, we really hope that you will apply to our ad." • "UCI is really interested in diversifying our faculty, I am so excited that we are interviewing you!" • "We have just recruited 3 Black faculty." 	You are only of interest due to your race/gender/nationality

<ul style="list-style-type: none"> • “We were able to hire a lot of UC Presidential Postdoctoral Fellows because they are ‘free’ for 5 years.” • “You would have a cohort of URM Asst profs here to interact with.” • “Your name doesn’t sound like you are a URM – make sure you make it clear that you are one.” • “There is a great program at UCI to hire two faculty for one if we make offers to URMs.” • “Your DEI activities give you a really good chance to be hired here – emphasize them whenever you have the chance!” • “Since you are Black/Hispanic, you will definitely get tenure here!” • “Unfortunately, being Asian or gay doesn’t count for diversity hiring here at UCI.” • Any statements focusing on race/ethnicity/gender rather than science during recruitment or interviews • “You are so lucky to have access to minority fellowship opportunities!” • “Dr. XX (advisor) is such an outstanding scientist; it must have been so amazing to work in their lab.” • “I have known Dr. XX (advisor) for a long time, they are an outstanding scientist.” • “Who developed your project?” • Describing someone as “an outstanding Black/Hispanic/female scientist” 	<p>You are not really qualified for this position based on your accomplishments</p> <p>You are valued for your skin color, not your scientific accomplishments</p> <p>You are in a different category than other assistant professors we hire</p> <p>We would not hire you except that we are incentivized to do so</p> <p>Implying that their success could only have come as a gift from a powerful advocate or ally suggests that low achievement is the expectation</p>
<p>Alternative Approaches</p> <p>Statements around DEI that may be better received:</p> <ul style="list-style-type: none"> • “Service related to DEI is recognized and rewarded in our School.” • Review the statement here and use phrases that align with your beliefs: https://equity.bio.uci.edu/home/ • “BioSci has both an Associate Dean for DEI and an Equity Advisor committed to removing bias from evaluations at every level so everyone will be able to thrive at UCI.” • “We have recently hired a really strong cohort of Asst professors – I would be happy to get you their names if you would like to speak with any of them.” <p>During the interview, focus on the individual’s science and opportunities for them to excel at UCI.</p> <p>Focus on the collegial and collaborative environment at UCI, highlight that the School administration is</p>	<p>Upstander Interventions</p> <p>If you witness tokenism:</p> <ul style="list-style-type: none"> • you could approach the speaker later to politely explain how their comments might have affected the candidate • You might engage the candidate in a conversation about their science to make it clear that you value their scientific accomplishments • you could highlight potential collaborations and resources on campus that help them see themselves “fitting in” here at UCI

<p>supportive and transparent (if you agree with this statement).</p> <p>Show that you understand and value their work - highlight collaborations that might be possible for them with UCI faculty, take the time to arrange meetings with faculty who are potential collaborators.</p> <p>Make sure that ALL individuals invited to interview speak with faculty representative of the diversity in the School.</p> <p>Show that you understand and value their work – be familiar with campus resources that can help them succeed.</p> <p>If the candidate brings up DEI issues/resources, continue the conversation. Feel free to offer to set up a meeting with the Assoc Dean or Equity Advisor for clarifications or more in depth discussions.</p>	
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Claiming Color-Blindness, Myth of Meritocracy

Sample Microaggressions	Messages Communicated
<ul style="list-style-type: none"> • “I have never seen any evidence of racism at UCI.” • “I took an Implicit Bias test and I am not biased against (fill in the blank).” • “I am not racist, I have several Black/Hispanic collaborators.” 	<p>Failing to acknowledge abundant evidence that systemic racism/sexism and other forms of bias exist denies the individual’s lived experiences</p>
<ul style="list-style-type: none"> • “As a woman, I understand what you are going through as a racial minority.” • “There is only one race, the human race.” • “All lives matter.” 	<p>Failing to recognize someone’s racial, ethnic, or gender identity cancels part of who they are</p>
<ul style="list-style-type: none"> • “As a scientist, I judge individuals based solely on their science/merit.” • “Grants and awards and publishing in high-impact journals is based on the quality of the science, not who you are.” • “Expectations for male, female and transgender faculty are equivalent.” 	<p>Failing to recognize that everyone is biased in some way will make it difficult to correct inequities in opportunities, allowing racism/sexism to continue</p>
<ul style="list-style-type: none"> • “Sexual preference is something no one cares about here – we even have transgender bathrooms.” • “Hiring here is totally equitable – we just hired a bunch of Black and URM faculty.” • “Everyone here gets promoted based on their merit – with our strong focus on DEI, reviews are very fair and there is no ‘diversity tax.’” 	<p>It is not really clear who is most qualified, bias certainly contributes to decision making.</p>

<ul style="list-style-type: none"> “California is very diverse; racism is not a problem here.” “The only reason we don’t have a more diverse faculty is that URMs don’t apply/there are fewer qualified URM candidates.” “I believe the most qualified person should get the job.” 	
Alternative Approaches	Upstander Interventions
<p>Information you could share:</p> <p>Highlight that BioSci has an Associate Dean of DEI, and Associate Dean of Faculty Development, and an Equity Advisor who help to ensure that the impact of bias on the review process is limited</p> <p>Our School is in the process of developing a Code of Conduct that directly addresses biased behavior.</p> <p>Faculty search committees participate in implicit bias training.</p> <p>Workshops and Town Halls addressing racism, sexism, and other forms of bias have been well attended by members of our School.</p>	<p>If you hear someone say these things, you could clarify to the candidate, ideally in the presence of the speaker, that you do not agree – while we strive for inclusion and fairness at UCI, there are inevitably times when we fall short. At the same time, you have been impressed with the sincere commitment of our faculty to promoting inclusive excellence/DEI.</p> <p>Overall UCI is a collegial campus, however there are a number of groups working to better support and promote the interests of minoritized populations. If you are involved in any, you could share that you are a member.</p> <p>The School is actively engaged in efforts to promote inclusive excellence and engage in fair and unbiased review practices. Share the information in the column to the left.</p>

Assumption of Criminal or Low-Status

Sample Microaggressions	Messages Communicated
<ul style="list-style-type: none"> Scientists of color frequently report being taken for support staff (janitors, cleaning staff, office staff) rather than academics Not sitting next to someone in a seminar because of their skin color Picking up your phone/purse/wallet to move them farther away from a person of color “Wow! I would have never guessed that you were a scientist!” 	<p>You are a criminal; You are dangerous.</p> <p>You do not belong in science.</p>
Alternative Approaches	Upstander Interventions
<p>Make sure everyone (faculty, staff, and students) is aware that a candidate will be visiting campus on that day (expect a guest)</p> <p>Add a photo of the speaker to fliers so that the individual will be recognized – do this for ALL speakers</p>	<p>Step in to interrupt any negative interaction you witness, introduce the applicant to the “aggressor” using their academic credentials</p>

Pathologizing Cultural Values or Communication Styles

Sample Microaggressions	Messages Communicated
<ul style="list-style-type: none"> • “You should be more out-going to make a good impression on this interview.” • “Don’t be so loud, you sound angry and may scare some people off.” • “Your word choice/speech patterns might make people think that you are not as accomplished – you should try to speak more like a scientist.” • “You are too polite – you need to fight more forcefully for your ideas or you won’t make it as a scientist.” • “You really should think about not wearing your hijab/changing your hairstyle when you interview - it might put some people off.” • “Bringing up race/culture in a professional setting is simply inappropriate. Just focus on your science” 	<p>You should assimilate to the dominant culture; leave your values at the door.</p> <p>There is no room for difference.</p> <p>My way is the best way.</p> <p>There is no place for discussing racism/sexism bias in a scientific setting.</p>
Alternative Approaches	Upstander Interventions
<p>Focus on substance, not style.</p> <p>Students have diverse learning styles and may benefit from diverse approaches in the classroom/lab.</p> <p>Students will be better able to envision themselves as scientists if they see professors that “look like them” and “act like them.”</p> <p>Who will talk about this if we do not? Content and context are important, of course.</p>	<p>If you see this happen, you could validate the candidate’s style and effectiveness with a supportive comment (“I found your seminar very clear and informative.”) A private comment to the “aggressor” later may be helpful.</p> <p>You could state that you do <u>not</u> believe the candidate needs to conform to fit in to the “standard” faculty mold, perhaps highlighting the diversity of our student body.</p> <p>“I appreciated your comments and insight regarding [issue].”</p>

Perpetuating Gender or Racial Stereotypes/Roles/Expectations

Sample Microaggressions	Messages Communicated
<ul style="list-style-type: none"> • “You are so articulate; you speak so well!” • “How much of the work you presented was your own?” • “How dependent is your work on your collaborators?” • “Do you think that it will be hard to function independently once you leave your advisors’ lab?” 	<p>My expectations for you were low based on your race/gender</p> <p>I don’t believe that you are talented enough to have made these accomplishments without help from someone from the privileged group</p>

<ul style="list-style-type: none"> • “You would totally get along with/you should absolutely meet Prof XX (name of faculty member who is the same race/ethnicity/gender).” • Assuming that someone of a particular race/ethnicity/gender will be interested in a particular sport or hobby. • Glancing at a female candidate’s finger to see if they are wearing a wedding ring. • Assuming that a female candidate will have a spouse that needs a position (career partner). • Assuming a female candidate will be interested in childcare or schools or that a man will not. Assuming that a female candidate will plan to have children/want to stop the clock. 	<p>Your peers are people “like you,” as opposed to scientists who work in your area or who are at your career stage</p> <p>I don’t think of you as a unique individual but a representative of your race or racial stereotype.</p> <p>Women should be married by a certain age, and to a man</p> <p>Women want to have children, a woman’s place is having kids</p>
<p>Alternative Approaches</p> <p>Focus on the content/substance, not the “packaging”</p> <p>When praising their seminar or preparedness, being more specific and acknowledging their expertise may mitigate concerns – “When Dr. Smith asked you about XYZ, I was really intrigued by your answer. Can you tell me more about XYZ? It sounds like you have really thought a lot about that problem.”</p> <p>“Have you discussed whether with your advisor whether they will continue to work on that topic? How will you compete with their established lab?”</p> <p>Ensure that all candidates meet with faculty that reflect our diversity.</p> <p>Talk about yourself and the resources you have taken advantage of on campus and in Irvine. Allow the candidate to ask questions if they choose once you have broached the subject.</p>	<p>Upstander Interventions</p> <p>If you see this happen, you could validate the candidate’s style and effectiveness with a supportive comment (“I found your seminar very clear and informative.”) A private comment to the “aggressor” later may be helpful.</p> <p>You could state that you do <u>not</u> believe the candidate needs to conform to fit in to the “standard” faculty mold, perhaps highlighting the diversity of our student body.</p> <p>“I appreciated your comments and insight regarding [issue].”</p>

Sexual or Gender Harassment or Bullying

Sample Microaggressions	Messages Communicated
<ul style="list-style-type: none"> • “I was surprised to learn that you are a lesbian, you are so pretty/act so feminine!” • “That is a pretty dress/ blouse.” • Repeated looking at a candidate’s chest. • “You are so beautiful/pretty!” • Otherwise commenting on a candidate’s appearance • “XYZ is really hot.” • Making sexist jokes, telling sexist stories 	<p>You may think this stuff is obvious, but these things actually happen</p> <p>Issue explicit statements to all individuals who will have contact with the applicant indicating that gender harassment and bullying are unacceptable, including during interviews and talks. One can challenge a job</p>

<ul style="list-style-type: none"> • Sharing photos of partially or suggestively dressed men or women. • Interrupting and/or belittling candidates during meetings, seminars, or social events in a way that is disrespectful or demeaning. • Discussing the candidate and/or their research in a faculty meeting in a way that is disrespectful or belittling. 	<p>candidate to defend their ideas without resorting to ridicule.</p>
Alternative Approaches	Upstander Interventions
<p>While <u>you</u> may think compliments will always be appreciated, they are not. Avoid discussing someone's appearance in a professional setting.</p> <p>The Dept or Search committee chair should intervene when harassment occurs in a public setting, but any faculty member should feel absolutely justified to step in.</p>	<p>If you see this happen and do not feel threatened yourself, you could state, "That was completely inappropriate." Interrupting the "aggressor" sends a very clear message that behavior like this is not tolerated here.</p> <p>Making the search Chair aware of what happened may be appropriate, depending on the severity of the event.</p>

Additional Resources

[Language Matters: Considering Microaggressions in Science](#)

[Racial dialogues: Challenges faculty of color face in the classroom](#)



MODULE 4

Reach Critical Mass When Diverse
Employees Tell You So

Opinion: Give Black Employees the Freedom to be Black

BY DORI TUNSTALL

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Nina Simone once answered, “I’ll tell you what freedom is to me. No fear.” Freedom from fear is the ultimate goal of Black people around the world. It is enshrined in The Universal Declaration of Human Rights (<https://www.un.org/en/about-us/universal-declaration-of-human-rights>). And yet, there is the fear that you feel on the streets as a Black person. The fear that the failure to “tone down your Blackness” will get you killed by the police, or neglected by a doctor, or denied housing by a landlord.

And then there is the fear that you feel every day on the job as a Black person – the fear that if you bring your full Black selves into the workplace, not only will you be rejected, but you will be fired. It is an insidious fear that leads to greater economic inequality, precarious employment and the continuation of systemic racism.

Over the past few weeks, Black employees and business owners across Canada have described the fears that come with bringing Blackness into their workplaces. It has not been a conversation everyone wants to have. As the CBC personality and cultural commentator Amanda Parris recently wrote (<https://www.cbc.ca/arts/canadian-cultural-institutions-have-silenced-black-voices-for-years-can-we-write-a-new-chapter-1.5600064>): “If history has taught us anything, it’s that Canadian institutions and companies do not welcome the truth when it comes to the realities of systemic racism.

They often do one of two things in response: 1) they systematically shut down those who disrupt the status quo, or 2) they symbolically acquiesce, but make only surface-level changes.”

Fortunately, this has not been my experience at OCAD University, where I am the first Black, and Black female, dean of a faculty of design – not just at OCAD U, but anywhere. And rather than seeing this anomaly as an example of tokenism – or supertokenism, as the utility of my exceptional talents are designed to overcome the institutional aversion to my presence as a Black cis-gendered woman within systems of white supremacy – what is happening at OCAD University is a possible model for other institutions to mimic to ensure enough Black representation that people feel free to be Black.

OCAD University is achieving a critical mass of Black employees at effective levels to transform the institution. It’s not just talk, but action. Here’s how to do it: Like OCAD U, institutions need to think about hiring Black employees in “sets of three” and entrusting them with power at the top level, influence in the middle level and growth at the entry level.

My school recently announced a successful Black Cluster Hire (<https://www.ocadu.ca/news/ocad-u-hires-five-new-permanent-faculty-recognition-international-decade-peoples-african>) of five full-time Black faculty in

Design – its first in 144 years, which is both thrilling and shameful. This was achievable because OCAD U had established critical mass in the sets of three. At the entry level, Black students consistently advocated for faculty who represented their lived experiences so that they could grow. At the middle level, professors, such as Lillian Allen and Andrea Fatona, wielded great influence on the institution through their activism and scholarship (<https://thestateofblackness.format.com>). They also served on the hiring committees to influence decisions, including the one to hire me. It took 144 years because the institution needed someone at the top with power. Nearly four years ago, I was hired as a (Black) dean with the real power to determine and negotiate faculty budgets, write position descriptions, support Black community initiatives and redesign the qualifications standards to account for systemic exclusion.

Many big and small freedoms in being Black are possible because we have built critical mass by turning five full-time Black faculty into 10. This also adds to our complement of Black administrative staff, who are represented in the president's and provost's offices, within facilities, the library, IT and student services.

Another positive development was the Speak to Power student forums we held not long ago. Black students overcame their fears to share with the new president, Ana Serrano, and the leadership team at OCAD U all the ways in which the institution has failed them by not supporting their lived experiences of Blackness in their education.

What do I mean by “big and small freedoms in being Black?” Those freedoms manifest themselves in wearing our hair in locs or braids, dressing in Kente cloth or Trinidadian tricolours, bringing jollof or patties to a potluck, and openly saying Black lives matter and having colleagues agree.

Many institutions have declared the intent to hire more Black employees. These declarations are welcome, but intention is just the first step. Black employees must be hired in numbers – think in multiple sets of three – and

entrusted with power, influence and growth. Companies and institutions that do this will only benefit. We perform miracles when free from the fear to be Black.

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DORI TUNSTALL is dean of the Faculty of Design at OCAD University.

The Importance of Psychological Safety in the Workplace for Black, Racialized, and Marginalized Employees

BY COLLEEN JAMES

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When we express our thoughts at work or open the floor for thoughtful discussions, we require the reassurance that our colleagues will listen with an open mind. The feeling of safety to speak your mind is the essence of psychological safety. The emphasis on diversity, inclusion and equity in the workplace propelled the importance of psychological safety for racialized employees.

For a long time, racialized and marginalized employees have always felt fear for speaking their minds. The backlash from co-workers, consequences from management, and the inability to advance in their roles – these employees who are underrepresented have much more to lose.

So how can companies cultivate a working space where the most marginalized employees feel psychological safety? Below, we'll run through the meaning of the term, the importance it holds in the workplace, and how employers can create a work culture that cultivates psychological safety.

The Difference Between Psychological Safety and Trust

The brief introduction to psychological safety may sound similar to the idea of trust. However, it's important to distinguish between the two.

When you think of psychological safety, think about dynamics and the environment among a group of people. In this scenario, the marginalized employee is concerned with how their colleagues and managers will view them as an individual. Psychological safety is when someone feels safe among the group to freely express their thoughts because they believe others will not hold anything against them.

As Laura Morgan Roberts and Anthony J. Mayo point out in their article, Towards a Racially Just Workplace (<https://hbr.org/2019/11/toward-a-racially-just-workplace>). “Executives will need to think deeply about their ethics and corporate culture and exert extra effort for a cause they may not consider central to their business. But the reward will be great: maximizing the human potential of everyone in the workplace.” This does not imply that all co-workers need to be best friends. In a psychologically safe work environment, there is an interpersonal climate that is characterized by trust and respect, in which people are comfortable being themselves and are respected.

Now let's examine the meaning of trust. Trust revolves around the ideas that an individual has about another person. It's the expectation that one person will behave the way the other person believes they should. We have all trusted people in our lives: trusting our partner won't betray us or trusting our parents will pick us up at the right time.

To distinguish psychological safety and trust think about it like this: with psychological safety, you're wary of how a group of people will perceive you. With trust, the focus is on whether you give others the benefit of the doubt.

The Importance of Psychological Safety

Psychological safety is especially important for racialized employees who continue to face racism and microaggressions in the workplace. These can appear as “jokes” or “playing devil’s advocate.” These comments are completely unacceptable. These are just a few common issues that Black and marginalized employees face:

- Microaggression (https://auburn.edu/equitytaskforce/pdf/Racial_MicroaggressionsshortVersion.pdf) including micro-assaults, micro-insults and micro-invalidations
- Lack of opportunities for advancement
- Inability to express themselves

And these are glaring and concerning issues. According to nearly 2/3's of Black HR professionals (<https://www.shrm.org/hr-today/news/all-things-work/pages/racism-corporate-america.aspx>) they believe their companies are not providing enough opportunities for their Black employees. Alternatively, one in five Black adults (<https://news.gallup.com/poll/315695/black-adults-disproportionately-experience-microaggressions.aspx>) believes they've been treated with less respect than their co-workers.

If no one speaks up about these issues, employees will continue to work in hostile environments. One where there is no sense of belonging, growth, and sense of feeling valued. This is precisely why psychological safety plays a pivotal role in the workforce. In Canada, a Black class-action lawsuit has been filed by former federal government employees who felt forced to resign due to systemic racism and ongoing discrimination. This YouTube video (<https://www.youtube.com/watch?v=yxOzGHgxdBQ>) is one example of ongoing treatment.

When racialized employees feel safe in the presence of their colleagues to express themselves, to bring up concerns, the workplace progresses towards a more just and inclusive work environment. This includes topics surrounding racism and microaggressions occurring in the workplace.

How Employers Can Develop Psychological Safety

All of this is much easier said than done. Ensuring a workspace that includes psychological safety means developing a work culture rooted in compassion, empathy, and trust. Even if that means starting from scratch, it's a necessary step. Here are few things you should consider when cultivating a psychologically safe work environment.

1. Embracing diverse narratives in the workplace

Embracing different experiences and diversity at the workplace will ensure that racialized employees feel valued. Welcoming differences creates a work culture that treasures the different opinions and ideas of racialized workers.

When this is done, employees feel safer in their work environment – they feel appreciated by their peers and management. A few ways it shows that your team embraces diversity includes:

- Making a Holiday Calendar – and being purposeful in scheduling meetings and events around non-westernized holidays
- Including everyone's thoughts on company changes and strategic objectives
- Management team composed of people of diverse backgrounds and experiences
- Offering ongoing education around equity, diversity, inclusion and anti-racism

2. Involved Upper Management

Upper management plays a huge role in the work culture and environment. When executives and managers make themselves more accessible, they reaffirm commitment to addressing equity involved in diversity and inclusion efforts, this reflects on the nature of the company.

This active involvement from managers may take away some barriers for racialized and marginalized employees to open up about racism and microaggressions in the workplace. In any case, they will feel protected by their employers.

3. A Sound Structure of Resolution

When racialized employees bring up any issues or concerns, there needs to be an organized structure of resolution in place. Alternatively, a safe space needs to exist during team meetings where they can freely express themselves.

For example, when employees bring up issues, is it common for managers to throw the issue to HR without a second look? Are there ways to ensure employees who speak up are protected when concerns are brought to the table? These are some questions to consider when constructing a system of resolution in your company.

4. Open Conversations

No one should face consequences for wanting change or improvements to current company systems and practices. Encouraging and embracing open conversations among employees where employees can learn from each other's experiences is a great way to cultivate an environment that centres on belonging and respect.

This can prompt racialized employees to feel psychological safety when they see colleagues listen and welcome everyone's narratives and perspectives, especially when they differ from others. As such, they'll feel safer bringing up topics such as racism.

5. Showing a Willingness to Change

A company that asks for feedbacks shows they value input from everyone. What's more important is when this feedback then leads to fundamental systemic changes.

It shows that the company is not stagnant in its traditional and possibly outdated views. When racialized employees can express their feedback, this makes it easier for them to feel safer expressing their thoughts and opinions. This is especially the case when they know their words can lead to substantial changes.

Within the organization, there are always opportunities to increase diversity and inclusivity. This includes ways to make sure employees feel psychologically safe when expressing their opinions and thoughts. When everyone feels safe in their work environment to speak on racism and a need for change, what unfolds is a chance for the company and its employees to improve and grow.

All companies should be highly mindful of their discussions on anti-racism, equity, diversity and inclusion. Are they positively impacting your racialized employees, or are they helping your white employees live with the discomfort of racism?

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The blog is curated by COLLEEN JAMES, Principal and Founder of Divonify Incorporated. Colleen's work is centered around the dismantling of oppressive systems by working with organizational leadership to address issues of systemic racism, equity, diversity and inclusion.

What is Cluster Hiring?

BY MELISSA MORSE

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Cluster hiring is the process of hiring new employees in groups rather than individually. This concept has become a common practice for universities and academia across the nation to help boost diverse hiring needs, but could this hiring process work for your business or organization?

Carla Freeman, in an article for The Chronicle of Higher Education (<https://www.chronicle.com/article/the-case-for-cluster-hiring-to-diversify-your-faculty/>), says that this process can take many forms, but the main goal and structure are simple: “Prioritize and invest in multiple positions in a broad field, or across a range of related fields, rather than hiring faculty members one by one in specific subfields. This increases the likelihood of a diverse pool of candidates, identifies synergistic connections among candidates and, by recruiting faculty cohorts together, fosters collaboration and a shared experience.”

While Freeman recounts how this process directly relates to academia, more and more businesses are seeing the value of adopting this strategy in order to recruit diverse talent. Sam Walker, Deputy Editor at The Wall Street Journal (<https://www.wsj.com/articles/a-business-lesson-from-academia-great-teams-assemble-themselves-11578718805>) explains how corporations are now adopting this strategy to hire C-suite leadership roles.

“In business, companies sometimes hire entire teams, too, especially when an incoming chief executive decides to clean house,” says Walker. “In recent years, new bosses at Uber, Chipotle, Borden and Bed, Bath & Beyond, among others, have chosen to recast their executive teams. Sometimes the chemistry clicks, sometimes it doesn’t.”

Boyce Thompson Institute Tries ‘Hunger Games’-Style Hiring

In the academic world, Boyce Thompson Institute (BTI) in Ithaca, New York, implemented this strategy by targeting individual scientists who were interested in “collaborative science.” “To attract more nontraditional candidates, they didn’t ask for letters of reference or obsess over resumes and specialties,” says Walker. “They asked researchers to send memos about their approach to collaboration.”

Walker adds that this approach allowed for better-quality candidates and more diverse candidates—especially in gender terms. BTI then invited these candidates to a symposium, where they had to target potential teammates, prepare a 15-minute presentation about their research, and then “speed date” around the room to discuss the research.

At the end of the day, candidates were invited to a private dinner, hosted by BTI, which allowed them to open up more and be themselves without worrying about BTI faculty judging them, as these members were not in attendance. “By the next morning, the candidates had embraced the idea that their fates were largely in the hands of others,” said one attendee. “Everyone started making subtle ‘social calculations’ about which of the others they felt they could depend on, and got down to the hard work of crafting proposals.”

The next stage of the process required candidates to submit different proposals and join groups to finish the projects. Walker says a few candidates ended up joining multiple groups, and each team was given several weeks to collaborate using video chat. At the end of the process, “BTI invited two teams back with a total of five members, all of whom received job offers,” says Walker.

David Stern, CEO at BTI, says the experiment produced an impressive pool of candidates with strong ideas. “We were pleasantly surprised,” Stern added.

“A friend of mine called it the BTI Hunger Games,” said attendee Andrew Nelson, then a research scientist at the University of Arizona. “But it wasn’t quite like that.” If you’ve seen the blockbuster hit movie, you know how it ends for most players: death. But obviously, that would never fly in the real world.

When it comes to team hiring, can a “Hunger Games”-style approach work for business?

Cluster Hiring in the Business World

As previously mentioned, corporations across the country are already implementing this process when hiring CEOs and other C-suite-level positions. And as Walker puts it, “If the rate of CEO turnover is any indication, it couldn’t hurt. Last year, 1,640 U.S. chief executives left their posts, according to Challenger, Gray & Christmas. That’s 13% more than in 2018 and the highest total since the study began in 2002. Some of these departures were voluntary, of course. But how

many of the deposed leaders could have survived with a stronger team?”

Walker suggests that in order for this to work at a higher level, companies need to invite qualified candidates in for something similar to what BTI did. “The candidates would be left alone to self-assemble into groupings that felt natural to them and produce memos about some interdepartmental initiative they’d like to collaborate on,” recommends Walker. “If a group of strangers can bond together and produce solid work in 48 hours, imagine what they could achieve in a year.”

While it may help you uncover which candidates work well within a group of other candidates, how these candidates interact with your workforce once hired is a whole different story. For hiring managers who are interested in trying this approach, it may be worthwhile to have current employees pose as potential candidates to get a better idea of how the real candidates would fit in.

Cluster Hiring May Not Solve Your Diversity Needs

One thing to keep in mind, however, is that cluster hiring is not the be-all and end-all to hiring diverse teams, especially in academia. “Cluster hiring is not the single ticket to successful faculty diversity,” says Freeman. “To be clear, cluster hiring entails labor-intensive, emotionally sensitive, and time-consuming work. It is work that also represents a sea change in the intentional—rather than passive—approach to diversifying the faculty.”

Walker explains that cluster hiring offers a tangible alternative to some of the classic hiring mistakes, but some companies will continue to hire teams based on qualifications or cultural fit, and that may lead to a toxic or nondiverse culture in the end. “Maybe the best way to assemble a great team is to let the team assemble itself,” concludes Walker.

Strategies to improve equity in faculty hiring

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ABSTRACT Through targeted recruitment and interventions to support their success during training, the fraction of trainees (graduate students and postdoctoral fellows) in academic science from historically underrepresented groups has steadily increased. However, this trend has not translated to a concomitant increase in the number of faculty from these underrepresented groups. Here, I focus on proven strategies that departments and research institutions can develop to increase equity in faculty hiring and promotion to address the lack of racial and gender diversity among their faculty.

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INTRODUCTION

Biomedical faculty at universities, research institutions, and medical schools are overwhelmingly white and male (Li and Koedel, 2017; Association of American Medical Colleges, 2018). In contrast, the trainee population is much more diverse than the faculty who train them (Heggeness et al., 2017). For example, white women, Asian women, and underrepresented minorities (URMs), defined as “individuals from racial and ethnic groups shown to be underrepresented nationally or defined as Blacks or African Americans, Hispanics or Latinos, American Indians or Alaska Natives, Native Hawaiians and other Pacific Islanders,” are overrepresented in National Institutes of Health (NIH) training programs, compared with the general labor market, but are underrepresented in the NIH-funded independent investigator pool (Heggeness et al., 2016). Indeed, several studies have shown that, while the number of trainees from URM groups has steadily increased, the number of faculty who are URMs has remained constant and low. One study identified the transition from postdoc to faculty as a major barrier (Meyers et al., 2018), and modeling in another study suggested that, at current postdoc-to-faculty transition rates, faculty diversity would not increase significantly until 2080, even with a dramatic increase in trainees who are URMs (Gibbs et al., 2016). These reports are underscored by the finding that Black trainees who have been awarded an NIH K99 grant are the only demographic to show a disparity in the activation of R00 funding, which occurs upon transition to a faculty position (Pickett, 2018). Given the

perception that winning a K99 is perceived by the biomedical community as a reliable indicator of future success as a faculty member, the racial disparity in K99 conversion to R00 highlights a serious problem in the demographic makeup of biomedical faculty.

In our conversations about increasing diversity, we often set up a false dichotomy between addressing equity and definitions of merit and excellence. Instead, we should consider whether our definitions of merit and excellence, and our reliance on these definitions, are flawed (Moore et al., 2017). The data presented above clearly indicate that the lack of diversity among biomedical faculty is not because there are not enough qualified trainees from underrepresented groups, which is often referred to as a “pipeline” issue (Gibbs, 2014a), but rather that our system of faculty hiring, retention, and promotion maintains homogeneity at the expense of increasing diversity and improving equity (Gasman, 2016; Sensoy and Diangelo, 2017). Here, I outline suggestions and interventions to reimagine our faculty hiring and promotion practices. Because information about faculty searches is not always readily available, these suggestions and interventions are synthesized from practices that either have been demonstrated to increase diversity or are associated with higher recruitment and retention of faculty from underrepresented groups. Similar “guidebooks” introduced at Michigan State University resulted in individuals from underrepresented groups being 6.3 times more likely to be offered faculty positions (Smith et al., 2015). Actively addressing this shortcoming in our hiring practices, which undoubtedly is also reflected in our merit review and promotion processes, will lead to a shift in culture that favors more diverse, equitable, and inclusive biomedical departments. While these suggestions may seem specific for biomedical departments, similar approaches may be useful for other science departments that suffer from a lack of faculty diversity.

WHY EQUITY?

Most individuals are familiar with the term “diversity” when discussing increasing the representation of underrepresented groups

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Abbreviations used: NIH, National Institutes of Health; SACNAS, Society for Advancing Chicanos/Hispanics and Native Americans in Science; URM, underrepresented minority.

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(Gibbs, 2014b). However, simply increasing the numbers of underrepresented individuals without re-evaluating our definitions of merit and excellence can lead to tokenization and an inability to retain faculty from URM groups. Therefore, another term often included with diversity is "inclusivity," referring to changes in culture that enable individuals who are underrepresented to be as successful as those who are well represented or overrepresented (Plaut, 2014; Volchock, 2018). In this piece, I am also going to use the term "equity." I deliberately use this term to acknowledge that both historical and current practices have limited the full participation of individuals from underrepresented groups in our academic system, affecting their introduction, ascent, and acquisition of power in our academic hierarchies. Some important consequences of improving equity in our departments and institutions are that all faculty, whether they are underrepresented or well represented, will have a better sense of how they are evaluated for hiring and promotion (Volchock, 2018) and there is a stronger possibility of lasting, institutional change.

Most of the emphasis on increasing diversity focuses on the advantages conferred by more diverse teams: they are more innovative and inventive, more capable of problem solving, and more effective (NIH, 2018). I would argue, however, that trainees from URM groups simply deserve the opportunity, like their white and male counterparts, to become faculty. Further, our current undergraduate students and trainees who are URMs deserve to see, interact with, and be taught by leaders in biomedical science who look like them and are capable of providing culturally competent pedagogy and mentoring. Given the documented importance of role models in providing examples of persistence, career success, and aspirations (Price, 2010; Shin et al., 2016; Johnson et al., 2019), this may be particularly relevant at institutions that have been or would like to be competitive for federally funded programs that support the success of trainees from underrepresented groups, such as NIH-funded programs like Maximizing Access to Research Careers, Initiative for Maximizing Student Development, Research Training Initiative for Student Enhancement, Postbaccalaureate Research Education Program, and pre- and postdoctoral training grants. To paraphrase Marian Wright Edelman, founder and president of the Children's Defense Fund, "They cannot be what they cannot see." In addition, our undergraduate students and trainees from well-represented groups

also need to see, interact with, and be taught by faculty and leadership who are URMs to counteract any implicit and explicit biases about what authority, expertise, and leadership in science look like (Nelson, 2018).

These are all important considerations when moving forward to improve equity during faculty hiring. However, some of these reasons may be more relevant in some departments and institutions than others. Because a well-articulated, thoughtful and explicit commitment to equity, diversity, and inclusivity is strongly correlated with the hiring and retention of faculty with URM backgrounds (Peek et al., 2013), departments should establish a consensus on their motivations for improving equity in faculty hiring *before* the strategies I outline are implemented. Developing this consensus will likely require facilitated workshops that highlight understanding bias, its adverse effects, and intentional changes in behavior that mitigate bias, because this has been shown to increase the representation of faculty from underrepresented groups at the University of Wisconsin (Devine et al., 2012, 2017). These conversations will not only inform the details of how the faculty position is advertised (see *Actively Advertising*) but will ensure that members of the department, who will be involved in assessing candidates during the hiring process and, when hired, during review and promotion, are actively invested in the success of faculty who are URM. These conversations will also help identify those members of the faculty who will be more effective advocates for faculty candidates from URM groups and thus more likely to participate in equitable hiring processes during the faculty search (Stewart and Valian, 2018). A checklist that may be useful for these conversations is available as Table 1.

ACTIVELY ADVERTISING

Advertising for a faculty position is the first visible example of an institution's commitment to equity. As such, job advertisements need to accurately demonstrate the level of effort that the department plans to expend to ensure equity in its hiring practices. Topically, the search should be as broad as possible to obtain the maximum number of applicants, including applicants who are URMs (Stewart and Valian, 2018). Narrow searches often limit the pool of all applicants, with the unintended consequence of reducing the number of applicants from URM groups. For example, the University of Michigan observed a doubling in the number of members of underrepresented groups applying for faculty positions in their

Identify and achieve consensus on goals for increasing equity and diversity in faculty hiring: What does the department hope to accomplish by hiring and retaining more faculty who are URM? Is this best accomplished with junior, senior, or both types of hires? Is this best accomplished by performing a cluster hire?

Identify advocates among faculty who will support the hiring and retention of faculty from underrepresented groups (equity advocates).

Develop a rubric to assess diversity statements early in the evaluation process. Determine how this rubric will be used during the review and tenure processes.

Draft advertisement(s) for faculty position(s) using the identified goals for improving equity.

Identify promising postdoctoral candidates or senior faculty at other institutions and personally contact them to encourage them to apply for the faculty position(s).

Develop a mentoring plan for early career faculty: Determine how many faculty will mentor each early-career faculty member, enumerate what this mentorship will entail (reading grants, shepherding through review and promotion processes, etc.), and how often they will meet.

Assess the review and promotion processes in your department and institution. Are there opportunities to make them more transparent and consistent?

TABLE 1: Checklist to improve equity during faculty hiring.

Chemistry Department once they expanded the job description, and faculty subsequently hired reflected this increased diversity (Stewart and Valian, 2018). The criteria for successful applicants should be clearly spelled out, with word choices that emphasize collaboration, growth, support for future success, and how the potential applicant's experience should dovetail with ongoing efforts to promote equity in the department and/or institution (Gaucher et al., 2011). The goal is to convey the institution's dedication to equity, diversity, and inclusivity and how the values and successes of candidates from underrepresented groups will contribute to this mission, an intervention that correlates with successful hiring of faculty from underrepresented groups (Smith et al., 2004). For example, advertisements could highlight the institution's work to improve the proportion of the undergraduate or graduate students from underrepresented groups and how prospective faculty will help further the institutional goals of promoting equity, diversity, and inclusivity at the undergraduate or graduate level.

Similarly, the venues in which this advertisement is placed need to demonstrate a serious commitment to equity in hiring. In addition to traditional venues for advertising faculty positions, departments should advertise in the venues that specifically target candidates who are URM, such as the job board hosted by the Society for Advancing Chicanos/Hispanics and Native Americans in Science (SACNAS) (<https://careercenter.sacnas.org>), Minoritypostdoc.com, and Twitter, where these positions can be highlighted by identifying hashtags such as #BlackandSTEM, #NativeinSTEM, #NativeScience, #LatinXinSTEM, #MarginSci, and #DiversityinSTEM.

Finally, departmental chairs or members of the search committee must actively reach out to promising postdoctoral candidates to assure them of the department's or institution's commitment to advancing equity in faculty hiring (Peek et al., 2013; Stewart and Valian, 2018), particularly because most departments have no or very few faculty from underrepresented groups. To proactively solicit applications from candidates who are URM, faculty should attend meetings focused on underrepresented scientists, such as the annual SACNAS meeting and the Annual Biomedical Research Conference for Minority Students meetings (Peek et al., 2013). Departmental chairs or members of the search committee should contact postdocs who have been recognized by programs such as the MOSAIC K99/R00 Award, Burroughs Wellcome Post-doctoral Enrichment Program, Howard Hughes Medical Institute Hanna H. Gray Fellowship, Ford Foundation Fellowship, and the President's Post-doctoral Fellowship, a national collaboration that includes the University of California and affiliated national laboratories, the University of Michigan, the University of Colorado, Stanford University, the California Institute of Technology, the University of Maryland, Carnegie Mellon University, the University of Minnesota, and New York University. Promising postdoc candidates can also be identified from the rapidly growing lists of databases in which trainees from underrepresented groups can self-identify for career opportunities. A list of databases is shown in

Table 2. The minority affairs or diversity and inclusion committees of scientific societies are another valuable resource.

REIMAGINING THE FACULTY SEARCH: REDEFINING EXCELLENCE AND MERIT

There is a sense in many of our departments that we will know quality when we see it. As a result, our criteria for evaluating faculty candidates can seem vague and absent of concrete examples. Further, when confronted with hundreds of applications, we can fall back on established but flawed proxies, such as where the candidate has trained or published, to evaluate candidates quickly. These proxies are themselves subject to bias (Moss-Racusin et al., 2012; West et al., 2013; Clauset et al., 2015; Milkman et al., 2015; Macaluso et al., 2016) and therefore artificially limit our ability to conduct an equitable faculty search.

To assess research more equitably and avoid relying on these proxies, Sandra Schmid, Professor and Chair of the Department of Cell Biology at UT Southwestern Medical Center, has suggested that faculty candidates summarize their most significant research contributions in graduate school and as postdocs in short statements separate from their research statements and CVs (Schmid, 2017). These documents provide a unique opportunity to evaluate what candidates identify as major questions in their fields, how their research has helped address some of these questions, and their ability to discuss these topics in an accessible manner. Importantly, this practice allows a redefinition of merit and excellence that relies on research quality versus quantity and less reliance on just evaluating publications on a CV (McDonald-Spicer et al., 2018). Including additional questions, such as asking which faculty the applicant would collaborate with, may also allow search committees to identify synergistic relationships at an early step in the assessment process. Schmid also encourages coupling the use of this document with Skype interviews of faculty candidates with a set list of questions provided in advance. This strategy can allow departments to expand the number and maintain the diversity of faculty candidates who get past the initial evaluation stage.

Another effective practice to improve equity is to use diversity statements early in the assessment process, at a stage when the CVs and research statements are being evaluated (Flaherty, 2017). This approach has been successful at Boston College and University of California, Riverside (Flaherty, 2017), where new faculty hires who were members of underrepresented groups grew to 22% of faculty hires (from 13%) at University of California, Riverside, and 46% at Boston College in 2016. More recently, the University of California, Berkeley, performed a successful search for life sciences faculty who are URMs that relied on de-identified diversity statements as the first step in assessment. Diversity statements allow for a more holistic evaluation of applicants (Harris et al., 2018). For scientists from well-represented groups, they provide an opportunity to consider and discuss how one will educate, train, and/or mentor students,

Minority Postdoc	www.minoritypostdoc.org/index.html
Diversify EEB (Ecologists and Evolutionary Biologists)	https://diversifyeeb.com
Diversify Chemistry	https://diversifychemistry.com
Folks in GCB (Genomics, Computational Biochemistry and Bioinformatics)	www.folksingcb.com
Caise Platform	www.caiselist.com
Diversify Microbiology	https://diversifymicrobiology.github.io
Diversify Immunology	https://diversifyimmunology.github.io

TABLE 2: Databases to identify faculty candidates from underrepresented groups.

particularly those from historically marginalized groups, who may have very different life experiences. Considering the increasing diversity of the undergraduate and trainee populations, this will provide an opportunity to identify candidates who take diversity seriously. For scientists from historically marginalized groups, diversity statements can play an even more important role: They highlight the important diversity, equity, and inclusivity work candidates may have done, information that may be difficult to glean or that may even be completely absent from a candidate's CV. Because this essential work is not typically recognized with prizes, awards, titles, or promotions, it can often be "invisible"; diversity statements can help to make this crucial work visible. Further, diversity statements also provide an opportunity for scientists who are underrepresented to talk about the barriers they have overcome in their careers and how these accomplishments may have shaped their approaches to research, teaching, and mentoring.

Departments should evaluate whether a candidate's diversity statement sufficiently supports the department's equity mission, similar to how a candidate's research statement should support the department's research mission. However, whereas faculty know how to judge a research statement, many may be unfamiliar with what makes a compelling diversity statement. Therefore, to properly use diversity statements in a more holistic evaluation of faculty candidates, members of the search committees should develop a formal rubric for diversity statement assessment. As a potential starting point, University of California, Berkeley, has made its rubric publicly available: https://ofew.berkeley.edu/sites/default/files/rubric_to_assess_candidate_contributions_to_diversity_equity_and_inclusion.pdf. In addition, because these statements are used so early in the evaluation process, it is important to emphasize in the job advertisement the equity mission of the department and/or institution, to underscore that diversity statements will be used in the assessment of candidates, and to provide examples of the rubric used to evaluate diversity statements.

Aside from diversity statements, incorporating additional criteria that may be important to the future success of faculty candidates could improve equity. For example, becoming a successful faculty member often involves the development of skills beyond the lab bench. Indeed, once one is in a faculty position, merit reviews and promotions often include assessment of service and teaching. Allowing candidates who have already demonstrated some aspect of leadership as graduate students or postdocs (helping to organize a regional meeting; helping to organize a departmental research club; involvement in outreach; helping to address equity, diversity, and inclusivity at their graduate or postdoc institutions) to highlight this criterion in their applications or Skype or in-person interviews could help identify individuals who are effective at balancing the multiple roles that faculty must often shoulder.

IN-PERSON INTERVIEWS: AN OPPORTUNITY TO SHOWCASE THE COMMITMENT TO EQUITY, DIVERSITY, AND INCLUSIVITY

After this initial assessment, faculty candidates often visit a university for an in-person interview. This interview is as much an opportunity for faculty candidates to evaluate a department or an institution as for the department or institution to evaluate a candidate. Therefore, these interviews provide a perfect opportunity for departments and institutions to showcase their commitment to equity, diversity, and inclusivity. First, members of the search committee can provide a clear agenda to every candidate with enough lead time that candidates can prepare appropriately. For example, most academic in-person interviews involve a formal seminar on previous research ac-

complishments, a more informal chalk talk on future research directions, and individual and group meetings with faculty and trainees. Next, these interviews should primarily include faculty who are supportive of the changes to improve equity in faculty hiring. If there are faculty involved in the search who are resistant to this cultural shift and seek to undermine it, faculty candidates may experience marginalization or be concerned about whether they will be assessed fairly during the hiring, promotion, and tenure processes. If this is difficult to accomplish because hiring a faculty member requires broad consensus in the department, faculty candidates should be prepared, such that the effect of this marginalization is minimized, and explicitly reassured by discussions about how this individual marginalization will be counteracted by equitable retention practices (see *After Hiring: Retention, Retention, Retention!*). In general, the in-person interview should convince faculty candidates from underrepresented groups that the members of the department and institution are deeply invested in their success and understand that their professional experiences may be different from those of their well-represented counterparts (Peek et al., 2013).

AFTER HIRING: RETENTION, RETENTION, RETENTION!

Once hired, faculty from underrepresented groups require continued support to ensure their retention because of heightened, sometimes unrealistic, expectations that accompany their transition to faculty (Settles et al., 2019). Further, these faculty may not have access to the same professional and academic networks that can provide guidance on navigating the sometimes hidden, or unwritten, rules of academia (Rockquemore and Laszloffy, 2008; Matthew, 2016). Indeed, retention and promotion are as much major barriers to the success of faculty who are URMAs as the transition from post-doc to faculty (Whittaker et al., 2015; Gumpertz et al., 2017). To this end, departments interested in supporting the success of faculty from URM groups must make their criteria for merit reviews and promotion as transparent as possible. For example, in the Molecular Cell and Developmental Biology Department at the University of California, Santa Cruz, untenured, assistant professors participate in departmental tenure decisions. Observing and participating in this decision making provides important insight into the criteria by which they will be evaluated and how their efforts outside research are assessed. Having yearly meetings with a dedicated mentorship committee to assess the progress of faculty for major career milestones, such as tenure and/or the transition to full professor, is another useful strategy (Peek et al., 2013). In addition to shepherding faculty through these often opaque academic processes, this mentorship committee provides senior individuals in the department who can advocate for faculty, especially faculty from URM groups, who can be held to a higher standard than faculty from well-represented groups (Settles et al., 2019).

In addition to increasing the transparency and consistency of merit reviews and promotion, faculty from well-represented groups can contextualize the career trajectories of faculty who are URMAs by becoming familiar with the growing literature about the bias and disparities that often describe their professional realities. Faculty from underrepresented groups experience bias in teaching evaluations (Macnell et al., 2015; Boring et al., 2016; Chisadza et al., 2019; Fan et al., 2019), disparities in authorship and publishing of papers (Budden et al., 2008; Macaluso et al., 2016; Feldon et al., 2017; Broderick and Casadevall, 2019; Murray et al., 2019), and disparities in success with federal funding (Ginther et al., 2011, 2016; Kaatz et al., 2016; Lerchenmueller and Sorenson, 2018; Tamblyn et al., 2018; Witteman et al., 2019), all of which are assessed in most departments during review and promotion. Two books that are helpful

to better understand the experiences of faculty who are URM are *Written/Unwritten: Diversity and the Hidden Truths of Tenure* by Patricia Matthew and *The Black Academic's Guide to Winning Tenure—Without Losing Your Soul* by Kerry Ann Rockquemore and Tracey Laszloffy (Rockquemore and Laszloffy, 2008; Matthew, 2016). Supporting the success of faculty who are underrepresented and ensuring their retention demands that well-represented members of the department educate themselves and their colleagues about this literature to appropriately evaluate their colleagues who are URM.

Finally, departments need to avoid tokenization of faculty who are URM and the possibility that they will be assessed differently or scrutinized more heavily than faculty from well-represented groups (Settles et al., 2019). Simply put, do not ask faculty from URM groups to do more than you would ask a well-represented faculty member to do. For example, faculty from underrepresented groups are often recruited for extra service to increase representation on departmental or institutional committees (Hayes, 2010); departmental leadership should be aware of this and committed to protecting the time of faculty from URM groups. If a major goal of hiring faculty who are URM is addressing equity, diversity, and inclusivity in the department, there needs to be similar expectations of well-represented faculty members. If faculty who are URM perform this role better than well-represented faculty members, then this skill set and expertise needs to be recognized, valued, and rewarded during reviews and promotion. If possible, there should also be attempts to identify strategies that will allow them to carry out these roles without affecting their other responsibilities (typically, excellence in their teaching and research programs). Opportunities for teaching relief and funding that specifically allow faculty from URM groups to develop department- or institution-specific programs to increase equity, diversity, and inclusivity without jeopardizing their research productivity are two such examples.

THE VALUE OF CLUSTER HIRES

Faculty from underrepresented groups experience unique challenges that can affect their ability to teach, perform research, and achieve professional success in their departments. The lack of other faculty from underrepresented groups with whom they can honestly discuss the challenges and priorities of their academic career trajectories may leave them feeling demoralized and isolated (Hayes, 2010). Also, faculty who are URM often take on additional, invisible labor in the form of mentoring students from underrepresented groups who are not in their classes or their labs or improving the inclusivity of their departments or institutions (Jimenez et al., 2019).

Cluster hires are primarily associated with multiple hires in an intellectual discipline, with the expectation that having multiple scientists focused on a common scientific problem will synergize to produce results that can have greater impact. Cluster hires to promote equity, diversity, and inclusivity can play a very similar role and have been successful at Boston University and University of California, Riverside (Flaherty, 2017). In addition to providing a supportive cohort for faculty who are URM, hiring several faculty from underrepresented groups ensures that some of this necessary, invisible labor will be more widely distributed. Thus, cluster hires focused on equity, diversity, and inclusivity synergize the efforts and labor of faculty from URM groups, enabling them to develop their teaching and research trajectories similarly to their counterparts from well-represented groups and achieve success in their departments.

CONSIDER SENIOR AND JUNIOR HIRES

Another compelling strategy for supporting the success of faculty who are URM at a research institution is to consider both junior and senior hires, either in the context of cluster hires or as a long-term

hiring plan. As junior hires ascend the academic ladder, their successful trajectories through the processes of merit reviews and promotions illustrate a department's commitment to the career development of faculty from underrepresented groups. These trajectories provide a clear signal to future faculty candidates who are URM that they can thrive in these departments. Senior hires who have been successful at their previous institutions provide much needed, and distinctive, mentorship and sponsorship to junior hires, even if they may not be in a position to provide institution-specific advice to junior colleagues. For example, they may have identified strategies, such as identifying specific blocks of time dedicated to speaking with students from URM backgrounds ("diversity office hours"), that allow faculty from URM groups to appropriately balance their equity, diversity, and inclusivity work with traditional metrics for review and tenure. In fact, prioritizing the hiring of established faculty from underrepresented groups may be an important first step in developing inclusivity and improving equity in a department or institution (Holloway, 2019).

CONCLUSION

The strategies that I have outlined provide a way to reimagine our faculty search and promotion processes that makes them more transparent, consistent, and less likely to maintain homogeneity at the expense of increasing diversity and improving equity. An important by-product of these changes in practice is that the experiences of all faculty during hiring and promotion will improve. Given the multiple barriers that faculty candidates and faculty from underrepresented groups experience at critical junctures of their career trajectories, biomedical departments need to demonstrate a clear investment, through a change in practices, to intentionally support their success. This demonstration requires a transformative shift in the culture of our departments, including a reimagining of our definitions of excellence and merit and, accordingly, a reinvention of our faculty search and promotion processes.

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MODULE 1

HUMAN RIGHTS LAWS AND HIRING FOR DECOLONIZATION, DIVERSITY, AND INCLUSION

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MODULE 2

WHERE ARE THE INDIGENOUS, BLACK, AND POC CREATIVES? NOT WHERE YOU ARE

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