Guidelines for

Fair Assessment in a Diverse Workplace:

Removing Barriers to Members of Visible Minorities and Aboriginal Peoples

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Canada

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Commission's Message

The face of Canada is rapidly changing. According to the 2001 Census, since 1996 there has been a 25% increase in the number of visible minorities and a 22% increase in the Aboriginal population.

As the largest employer in Canada, the federal Public Service is committed to building an inclusive workplace whose composition reflects the diversity of the population it serves. We want to attract all citizens to careers in the federal Public Service, not only to draw on their talents, but also to ensure their varied perspectives are taken into account in creating programs and policies to serve the diverse Canadian population.

In such a context, it is imperative that managers, who in the modernized human resources management regime have considerably more responsibility for resourcing, equip themselves to meet the challenge of assessing candidates from a wide range of backgrounds and experience.

To support hiring managers, the Public Service Commission's (PSC) Personnel Psychology Centre has produced this document, *Guidelines for Fair Assessment in a Diverse Workplace: Removing Barriers to Members of Visible Minorities and Aboriginal Peoples*, as well as an earlier companion piece, *Guidelines for Assessing Persons with Disabilities* (September 2002); both can be found at www.psc-cfp.gc.ca/ppc/coverpg_e.htm. Hiring managers and human resources specialists will find them to be essential tools to help build and maintain a diverse federal workplace.

The PSC, as an independent agency responsible to Parliament for ensuring that the merit principle is applied in resourcing for the Public Service, will be closely monitoring departments' assessment and selection practices. These *Guidelines for Fair Assessment in a Diverse Workplace* are not just "recommended reading," they are an indispensable tool for human resources specialists and hiring managers, who are key players in improving representativeness.

It is to our nation's advantage that we are able to draw on the many talents, backgrounds and experiences of Canadians living from coast to coast to coast. In doing so, we benefit from a wide range of perspectives that nourish creativity, foster innovation and represent the views of an increasingly diverse society.

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Scott Serson   Nurjehan Mawani
President   Commissioner

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Introduction

Canada is an inclusive society, rich in diversity, with people from many backgrounds, experiences and cultures. As the institution designed to serve Canadians, the federal Public Service should be comprised of individuals who are qualified to do their jobs, and should reflect the diversity of the population served. The principles of merit and representativeness go hand in hand: the social and cultural diversity that has enriched Canada provides a large pool of highly qualified and diverse talent for Canada's Public Service.

Assessment plays an important role in selection to, and from within, the Public Service. This document provides generic guidelines for the fair assessment of *all* candidates in federal selection processes, regardless of whether or not they belong to any of the four designated employment equity groups. The four designated groups include: women, members of visible minorities, Aboriginal peoples, and persons with disabilities. The document also addresses ways to identify and remove barriers to the fair assessment of two of the four designated employment equity groups, namely: members of visible minorities and Aboriginal peoples.

⇒   The *Guidelines for Assessing Persons with Disabilities* should be consulted for additional information on accommodations for ensuring the fair assessment of persons with disabilities. This document can be found in the Human Resource Management (HRM) Information section of the Personnel Psychology Centre Web site: http://www.psc-cfp.gc.ca/ppc/hrm_info_e.htm

The *Guidelines for Fair Assessment* present fundamental concepts related to fair assessment as well as examples of applying these principles.

- Part I summarizes the legal framework in which these guidelines are applied.
- Part II describes six principles for the fair assessment of all individuals and groups.
- Part III describes personal and cultural biases that can influence assessment, and outlines ways to increase awareness and control of these sources of potential bias.
- Parts IV and V provide examples of applying the general principles of fair assessment to remove barriers to members of visible minorities and Aboriginal peoples.

Removing barriers in assessment does not follow a single "recipe"; rather, it is based on understanding the legal framework, heightening awareness of potential biases, and using judgment in applying the principles of fair assessment. It is suggested that users of this document read Parts I, II and III before referring to specific examples of removing barriers to assessing members of visible minorities or Aboriginal peoples provided in Parts IV and V.

Legal Framework

The 1982 *Charter of Rights and Freedoms* was the first constitutional recognition of the right to equality in Canada. Since then, Canadian law has reinforced and built upon this recognition of the equality of people. For example:

- the *Official Languages Act* (1988) provides equal opportunities for English-speaking and French-speaking Canadians to obtain employment and advancement in federal institutions;

- the *Canadian Multiculturalism Act* (1988) provides for the freedom of all Canadians to preserve, enhance and share their cultural heritage, and equal opportunity for Canadians of all origins to obtain employment and advancement in federal institutions;

- the *Employment Equity Act* (1995) requires employers to identify and eliminate barriers to the employment of four designated groups: women, members of visible minorities, Aboriginal peoples, and persons with disabilities; and

- the *Canadian Human Rights Act* (1998) prohibits discrimination on the basis of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability or conviction for an offence for which a pardon has been granted.

In addition, selection and assessment for employment in the federal Public Service must be guided by merit. Standards governing the selection and assessment of candidates must be free from discrimination, and assessment methods must treat all candidates in a non-discriminatory manner, with accommodation provided so that each candidate is assessed according to his or her personal characteristics, rather than presumed group characteristics.

In short, Canadian law prohibits discrimination in employment practices on grounds such as race, national or ethnic origin, colour and religion. As well, Canadian law requires that, for members of the four designated employment equity groups, barriers in employment be identified and removed, and that accommodations be made.

Appendix A provides more detailed information on the legal framework as it relates to fair assessment in a diverse workplace.

Principles of Fair Assessment

Introduction

The fundamental purpose of assessment for personnel selection is to determine people's competence to perform the work and, where appropriate, their potential to progress along a foreseeable career path.

Fair assessment provides all candidates with equal opportunities to demonstrate their qualifications. As such, fair assessment is barrier-free. This section describes six principles underlying fair assessment. Subsequent sections deal with the importance of awareness of potential biases when using these principles, and provide examples of applying the principles to remove barriers to the fair assessment of members of visible minorities and Aboriginal peoples.

The principles are not a set of rules but rather a framework that can help to put staffing values, such as fairness, equity, transparency, respect and integrity into practice. They provide guidance in making the many choices and decisions required in a selection process so that all candidates have an equal opportunity to demonstrate their qualifications. As such, they contribute to the goal of creating a public service that is competent, representative and non-partisan.

Principle 1: When reviewing the work to be done, take into account the diverse ways in which the work can be accomplished.

Fair assessment begins long before any qualification is assessed. Qualifications must be based on the work to be performed. Accordingly, fair assessment begins with a thorough understanding of the duties to be performed in the job(s), the scope and level of these duties, and the context in which they are performed.

⇒　　Further information on analyzing the duties of the job(s) to be filled can be found in the *Standards for Selection and Assessment*:
　　http://www.psc-cfp.gc.ca/staf_dot/stand_selec/index_e.htm

When thinking about the work to be done, the manner in which it is carried out, and the work environment, it is essential to think about diverse ways in which the work can be successfully performed. Under the *Canadian Human Rights Act*, an employer is required to accommodate the needs of an individual, or a class of individuals, to the point of undue hardship. Accordingly, you need to provide opportunities for people to perform these duties in different ways. Understanding that work can be accomplished in a number of equally effective ways is the foundation for ensuring that qualifications are barrier-free.

Principle 2: **Ensure that all qualifications are required to do the work, and are clearly defined and barrier-free.**

Qualifications must be based on the work to be performed, and include the following types: Knowledge, Abilities/Skills, Aptitudes, Personal Suitability, Experience, Education, Occupational Certification, and Official Language Proficiency. Future, as well as current, organizational needs may be considered in specifying qualifications. In addition, it is critical to establish the relative importance of each qualification up-front and to avoid overemphasizing one aspect, for example Experience, as this may exclude otherwise capable individuals.

All qualifications must be clearly defined to be fairly assessed. It is often useful to define qualifications (including Abilities/Skills, Aptitudes, and Personal Suitability) concretely in terms of the observable behaviours that a competent person would perform when displaying the qualification.

Consulting with members of designated groups and/or experts in diversity is an important step in ensuring that a Statement of Qualifications is barrier-free. This review should ensure that the qualifications are both clearly understood and defined broadly enough to capture the full diversity of effective work styles and to recognize the value of diverse experience. A review of the Statement of Qualifications and any related behavioural definitions can help to identify qualifications that are unduly restrictive or culturally specific. Replacing or revising such qualifications with a broader perspective and more inclusive approach in defining them will remove potential barriers to otherwise competent and qualified candidates.

⇒   Information on defining competencies can be found under the heading "Competencies"on the Personnel Psychology Centre Web site: http://www.psc-cfp.gc.ca/ppc/hrm_info_e.htm

Principle 3: **Choose or develop assessment instruments that are valid and reliable, and that provide candidates with an equal opportunity to demonstrate their qualifications.**

After the qualifications are specified, the Selection Board decides how candidates will be assessed. Varied methods are available to assess qualifications including, for example, reviews of past experience and accomplishments (e.g., reference checks, self-reports, or samples of previous work), written tests, simulations, and interviews. A fundamental requirement of any assessment instrument is that it be valid; that is, the instrument must measure the qualification that it is intended to measure. For example, an instrument used to measure "Teamwork" must accurately assess the qualification as defined by teamwork behaviours. Another requirement is that any assessment instrument be reliable; that is, the instrument should yield consistent results. For example, two people trained to review candidates' self-reports of experience should evaluate a given self-report in a comparable manner.

In addition to being valid and reliable, assessment instruments must provide candidates with an equal opportunity to demonstrate their qualifications. No single assessment instrument can take everything into account, and candidates may react differently to different forms of assessment. Accordingly, when feasible, it is advisable to use more than one source of information, not only across different qualifications, but also for the same qualification. For example, information from an interview and a reference check can be combined to assess an ability. Multi-method

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assessments increase candidates' opportunities to demonstrate their qualifications and can also provide more complete and hence more valid assessment.

In addition to using multi-method assessments, it is also important to ensure that each assessment instrument reflects diversity. For example, language that requires culture-specific knowledge that is not work-related can be replaced by language that will be equally familiar to a diversity of candidates. The content of tests, interviews, or simulations that present hypothetical situations or scenarios can be examined to ensure that these convey the message to all candidates that diversity is recognized and valued. This can be achieved in part by varying the gender and other personal characteristics of hypothetical characters portrayed so that diversity is represented in a positive light.

⇒ Information on developing and using valid assessment instruments (e.g., structured selection interviews, simulations, paper-and-pencil tests) can be found under the heading "Assessing for Competence Series" on the Personnel Psychology Centre Web site: http://www.psc-cfp.gc.ca/ppc/hrm_info_e.htm

Principle 4: Provide candidates with the information that they need on the assessment process.

Candidates cannot perform at their best unless they understand what they are to do and how they will be evaluated. To the extent that some candidates have less direct experience with certain assessment processes or have limited access to information about assessment processes through informal channels or networks, they will be disadvantaged. Consistent, clear, and adequate information about the assessment process should be provided to all candidates before the assessment so that pre-existing information gaps among candidates can be minimized. Another opportunity to provide candidates with information on the selection and assessment process is after the selection decision is made. At that time, candidates can find out more about the selection and assessment process—for example, additional information on selection criteria— and information about the assessment of their qualifications. Such post-selection feedback can help candidates prepare for future assessments, and may also provide departmental personnel with information on candidates' reactions and experiences in the process that may be useful for improving future selection and assessment.

⇒ Information on the most frequently administered exams and sample questions can be found under "Sample Exams" on the following Web site: http://jobs.gc.ca/menu/ui_examinfo_e.htm

Principle 5: Gather assessment information in a way that provides all candidates with an equal opportunity to demonstrate their qualifications.

When an assessment method involves interaction with candidates (e.g., an interview), it is important to conduct the interaction in a way that optimizes candidates' opportunities to demonstrate their qualifications. The Board's interaction with every candidate should be characterized by respect, and should reinforce each candidate's belief that his or her performance will be evaluated solely on the basis of his or her qualifications, and not extraneous factors. Selection Board members should be knowledgeable about employment equity and human rights legislation, including knowing the types of questions that cannot be asked in an employment interview because they are related to prohibited grounds for discrimination. Communication that is clear and adapted to different candidates' communication styles will also help to ensure equal opportunity to demonstrate qualifications. Finally, the composition of the Selection Board can have an impact on candidates' comfort levels and possibly their performance. Accordingly, it is useful to have a knowledgeable, respectful, and to the greatest extent possible, diverse Selection Board that is representative of Canadian society.

⇒ For more information about questions related to prohibited grounds for discrimination, see *A Guide to Screening and Selection in Employment,* a publication made available through the Canadian Human Rights Commission:
http://www.chrc-ccdp.ca/publications/index.asp?l=e

Principle 6: Evaluate candidates' qualifications based on work-related assessment criteria, avoiding sources of potential bias.

Evaluation of a candidate's qualifications takes place *after* the assessment information has been collected. Selection Board members need to evaluate qualifications based solely on work-related assessment criteria.

It is important for Selection Board members to be aware of their own potential biases in order to avoid potential sources of error when assessing qualifications. For example, a Selection Board member may consistently evaluate certain qualifications more positively than others (e.g., when reviewing résumés, placing higher value on experience gained inside versus outside Canada, or on experience gained inside versus outside the Public Service).

Such errors in assessment can occur because people tend to evaluate more positively those whom they perceive as similar to themselves than those whom they perceive as different. As well, people can be influenced by stereotypes that they have about others. These stereotypes can be positive or negative. Consequently, when evaluating qualifications, Selection Board members need to be aware of their own values, culture, and assumptions ("pre-judgments"), guard against the influence of these sources of potential bias in making evaluations, and focus solely on work-related criteria in assessing each candidate's qualifications. One of the potential benefits of a diverse Selection Board is the availability of a broader understanding of the ways in which diverse candidates may demonstrate their qualifications, thus better enabling the Board to make sound selection decisions based on work-related criteria. Part III provides additional information on increasing awareness of potential sources of bias.

Learning from experience

Although the six Principles for Fair Assessment are straightforward, putting them into practice can present challenges. It is essential to learn from experience and monitor progress. Systematically asking candidates about their experience of the application and assessment processes, and tracking candidate performance can help to identify areas for improvement. Analyzing the experiences and outcomes of designated employment equity group members can help to identify specific systemic barriers and eliminate them in future assessment processes.

Increased Awareness: A Key to Applying the Principles of Fair Assessment

The Principles of Fair Assessment provide guidance to managers and human resource personnel in making some of the many choices and decisions required in a selection process. However, putting the Principles into practice can be challenging because people are subject to personal and cultural biases. A key to reducing bias in assessment, and fully applying the Principles of Fair Assessment, is to increase one's awareness of the nature and sources of bias.

Why increased awareness is required to apply the Principles

When defining job duties, without realizing it, a manager may believe that "his way" or "her way" is the only way in which job duties can be effectively performed. This manager cannot truly apply Principle 1, "When reviewing the work to be done, take into account the diverse ways in which the work can be accomplished," without first having some awareness that he or she may be making assumptions about the work that are in part culturally determined and not universally shared. Similarly, applying Principle 6, "Evaluate candidates' qualifications based on work-related assessment criteria, avoiding sources of potential bias," requires that each manager and Selection Board member be aware of his or her own potential biases, such as racial stereotypes, in order to control their influence on the accuracy of assessment.

In order to apply the Principles of Fair Assessment in a culturally and racially diverse workplace it is important to have an understanding of:

- culture and its influence on workplace values and behaviour,
- ways to recognize and reduce cultural bias in assessment,
- ways to improve communication across cultures,
- personal bias and prejudice in assessment, and
- how these can be controlled to eliminate discrimination and increase the accuracy of assessment.

These topics are discussed below.

Be aware that your workplace values and behaviours are influenced by your culture

Culture is something that *all* of us learn from birth. It is not something that certain people and groups have, and others do not.

Culture can be described as being comprised of the learned *values* and *behaviours* shared by a group.

- *Values* are ideas, attitudes, assumptions and beliefs to which strong feelings are attached.
- *Behaviours* are outward expressions of values.

Although these shared values and behaviours can be observed among people from the same cultural group, individual diversity exists even among those who share the same cultural background. In addition, cultures also change over time and through contact with other cultures.

Both at work and outside of work, people's thoughts, feelings, actions, reactions, and values are influenced by their personal characteristics and by their culture. For example, certain cultures place a high value on aspiring to change things, demonstrating linear thinking, and meeting conflict head on; other cultures place a higher value on prudently accepting things as they are, demonstrating holistic thinking, and avoiding conflict. As a result, people with different cultural backgrounds may have different understandings of what is appropriate or desirable at work.

Be aware that cultural bias can reduce the fairness of assessment

Being aware of one's own culture and understanding how it influences one's workplace values and behaviours can go a long way toward deepening one's understanding of cultural diversity in the workplace. This is also essential for recognizing and reducing sources of cultural bias in assessment. People typically feel most comfortable with, and understand most clearly, the values and behaviours of their own culture. People tend to be less familiar with the values and behaviours of other cultures. When working with or evaluating the qualifications of people of other cultures, they may view less familiar values and behaviours as unusual and not of equal value to those of their own culture.

How to reduce the effects of cultural bias

Whenever possible, involve people from diverse cultural backgrounds or experts in cultural diversity in the assessment process. This will help to ensure that culturally-based assumptions in the definition of work and qualifications, or in assessment instruments are identified and addressed. For example, defining the work and qualifications, and developing assessment instruments can be accomplished by team members from diverse backgrounds or the results can be reviewed by experts in cultural diversity. Selection Boards with diverse members empowered to facilitate fair assessment can contribute to better communication between the Board and the candidate, and reduce cultural bias in the evaluation of candidates.

Be aware that communication is influenced by culture

The interview is one of the most commonly used assessment methods for gathering information on candidates' qualifications (Principle 5). Managers rarely hire people without first meeting them to discuss their qualifications. As the Canadian population becomes increasingly diverse, candidates and board members from diverse cultures engage in cross-cultural communication.

Suggestions to facilitate cross-cultural communication

The following suggestions can facilitate effective two-way communication between candidates and board members of various cultural backgrounds.

1. Remember that each person is a unique individual who cannot be understood solely on the basis of the group to which the person belongs, or to which you assume the person belongs. Avoid making assumptions about a candidate's background, values and behaviours on the basis of *visible* racial, ethnic or religious characteristics, a person's name, or accent.

   For example, an Aboriginal man with braided hair may be a traditional elder, or may be a nationally-known urban professional, or both. As another example, a candidate named Lisa Zhao may or may not be of Asian descent, may be a fourth generation Canadian citizen or recently arrived in Canada, and may or may not share cultural values and behaviours that many associate with Asian cultures (e.g., reluctance to disclose one's own strong points).

2. When you observe behaviour that you do not understand, there may or may not be a cultural explanation. If the behaviour is not relevant to the qualification you are assessing, disregard it. If the behaviour *is* relevant, seek out information to better understand it.

   For example, if you are not sure that you have understood the meaning of what the candidate has said, paraphrase to seek clarification and understanding. If a candidate's response to a question seems to you to be off topic, ask yourself "What, if anything, am I being told here indirectly?"

3. Adjust your behaviour to the candidate, while still being yourself. Board members are responsible for providing all candidates with an equal opportunity to demonstrate their qualifications. This can mean adjusting your behaviour to facilitate a candidate's demonstration of competencies. However, when adapting to the candidate you should not go so far as to obviously identify with or imitate the communication style of the person being assessed.

   For example, if a candidate is clearly ill at ease at the start of the interview, board members can adapt by taking a few extra minutes to establish rapport with the candidate. However, it could be considered condescending and patronizing for a board member of any culture to adjust his or her pattern of eye contact or speaking cadence to resemble that of a candidate from a different culture.

4. Cultures vary in the meanings they ascribe to various aspects of verbal and non-verbal behaviour. For example, patterns of eye contact, silence, and nodding can mean different things in different cultures. This is also true of behaviours that people demonstrate in social greetings and leave taking. Cultures also differ in the nature and degree of emotional expression considered appropriate in varied settings, in the level of detail considered appropriate when responding to questions, and in the appropriateness of highlighting one's accomplishments. Given these differences, it is important to resist the natural temptation to evaluate a candidate based on your own cultural values.

   For example, in some cultures a firm handshake and expressed pleasure are often interpreted as signs of sincerity, confidence and good will. In other cultures, a soft-spoken hello or nod is considered more appropriate. Do not judge a candidate's qualifications based on irrelevant differences in verbal and non-verbal behaviour.

   When assessing a candidate's qualifications, you should consider a cultural difference in verbal and non-verbal behaviours only if the behaviour in question can be interpreted unambiguously and is clearly relevant to the assessment of a *bona fide* occupational requirement.

5. Training of Selection Board members in cross-cultural communication and diversity in general can contribute to enhanced two-way communication between candidates and board members.

It is critical that interviewers show respect and understanding in every interview. There are tens of thousands of cultures and sub-cultures; no one can know them all, or the differences among them. However, demonstrating respect, warmth and empathy will go a long way toward facilitating inter-cultural communication, and ensuring the fair assessment of all candidates.

Be aware of your own potential biases and prejudices

As previously noted, all people can be influenced by personal biases. Such biases can take the form of conscious or unconscious prejudice and discrimination. Personal biases can have an impact at any stage in the selection process, but perhaps most particularly when evaluating candidates' qualifications (Principle 6).

A first step in eliminating the possible influence of personal biases in assessment is to have a clear understanding of the meaning of prejudice and discrimination, and of the ways they can influence assessment without one's conscious awareness.

Prejudice is a conscious or unconscious *pre-judgment* of others based on their real or assumed membership in a particular group (e.g., racial or cultural group). Most prejudices are *against*, rather than *for* other groups or individuals.

Discrimination is the behavioural *expression* of prejudice: it is the *act* of differential treatment of an individual or group (intentionally or unintentionally) that usually creates a disadvantage for that individual or group.

One of the disconcerting aspects of prejudice is that most people will recognize its effect on human behaviour, but few people are willing to acknowledge their own personal biases. For example, people tend to be more perceptive in identifying prejudices among their colleagues and

friends, and less perceptive in recognizing their own prejudicial attitudes and beliefs. Difficulty in acknowledging personal prejudice can be partly attributed to systemic factors. For example, pervasive and stereotypic portrayals of certain groups in the media can reinforce the erroneous belief that one's personal biases about these groups are not biases but an accurate reflection of reality. Personal prejudices, reinforced by systemic factors, tend to go unchallenged unless individuals actively attempt to increase their self-awareness and control these prejudicial attitudes and beliefs.

In summary, most people are not completely aware of their own personal biases. As a result, a board member with unconscious prejudices may create as firm a barrier to certain candidates as a board member who has a strong and conscious prejudice against a certain group. Therefore, it is essential that those who are responsible for assessing candidates' qualifications have a keen awareness of their personal attitudes about groups other than their own, and that they take steps to reduce or control the influence of such attitudes.

Heightening self-awareness and controlling prejudice

There are various ways to become aware of one's own biases and prejudices. One way is to ask yourself questions such as:

- Are there any groups whose members, in principle, I would not invite into my home, or include in my circle of friends?

- What groups do I perceive as most different from myself? Why do I perceive them as different? How might this affect my evaluation of their qualifications if they were candidates in a selection process?

- Are there any groups that I prefer to associate or work with based solely on such characteristics as race, religion or culture? (Sometimes subtle prejudice can underlie preferences based on group membership alone; for example, preferring to work with Asian women because of the belief that they are less assertive than Caucasian women.)

Other insights into personal prejudices may be gained by analyzing personal reactions to culturally-relevant issues such as interracial marriage, Canada's immigration policies, Aboriginal rights issues, employment equity, etc. Questioning government policy or "conventional wisdom" is not a sure sign of prejudice. However, if your conclusions lead you to think that you have attitudes that may influence the accuracy of the evaluations you make in selection processes, you should ask yourself about measures you can take to become more objective about members of certain groups.

Various ways to reduce prejudice are available. For example, you can use your emotional reactions (positive and negative) to alert you to the possibility that subjective values may be at play and that alternate interpretations may be possible. You can also acknowledge and seek information to disprove the stereotypes and prejudices you have about others. Voluntary attendance at a workshop or seminar on diversity, or working on a shared objective with people of other races or cultures can also provide opportunities to perceive and control biases you may hold about other groups.

Additional information and resources regarding diversity can be found in the "Diversity Collection" of the Public Service Commission Library:
http://www.psc-cfp.gc.ca/library/diversity_collection_e.htm

Workshops and training related to diversity may be offered periodically by your organization. In addition, some unions—such as the Public Service Alliance of Canada (PSAC)—provide information and courses relevant to diversity:
http://www.psac.com/what/education/courses-e.shtml

Removing Barriers to the Fair Assessment of Members of Visible Minorities

Introduction

As defined by the *Employment Equity Act*, " 'members of visible minorities' means persons, other than aboriginal peoples, who are non-Caucasian in race or non-white in colour." The *Employment Equity Act* requires employers to identify and remove barriers to employment, institute positive policies and practices, and make reasonable accommodations to achieve representation of members of visible minorities in the employer's workforce proportionate to their labour market availability.

In spite of statutory and regulatory obligations, however, members of visible minorities continue to be under-represented in the federal Public Service. This fact was pointed out in the Treasury Board report to Parliament on *Employment Equity in the Federal Public Service in 2000-2001*. As indicated in that report, although progress had been made compared to previous years, the Public-Service-wide population of members of visible minorities was 6.1%, well short of the labour market availability of 8.7%.

In their March 2000 action plan entitled *Embracing Change in the Federal Public Service*, the Task Force on the Participation of Visible Minorities in the federal Public Service made a number of recommendations to correct this under-representation. Among the recommendations in the action plan accepted by the Government was the setting of benchmarks. For example, a benchmark of 1 in 5 has been set for the external recruitment of members of visible minorities (target date 2003). Achieving this benchmark will involve action at many levels. Applying the Principles of Fair Assessment can contribute to achieving this benchmark by helping to ensure that the competence and qualifications of members of visible minorities are fully recognized.

⇒ Information about: i) groups listed as visible minorities on the *Employee Self-Identification Form*; and ii) *Embracing Change in the Federal Public Service* and the Government's endorsement of the Embracing Change Action Plan, can be found on the Web site of the Treasury Board Secretariat, Employment Equity Division: http://www.tbs-sct.gc.ca/ee/index_e.asp

Applying the Principles to remove barriers

It is important to remember that the Principles of Fair Assessment are applicable regardless of the cultural or racial background of board members, human resource personnel, or candidates. The Principles do not represent special treatment of any group. To the contrary, their application helps to ensure the fair assessment of *all* candidates.

The following section presents examples of how one can put the Principles into action to remove barriers that may exist in the assessment of members of visible minorities. The examples below are meant to be illustrative rather than definitive because members of visible minorities differ widely, not only between particular groups, but also within each group. Because of this diversity, the barriers that members of visible minorities may face are also varied.

The problem depicted in each example is based on a real incident or systemic barrier which a member of a visible minority may encounter. The details, including names, and endings of the stories have been modified to ensure anonymity and to illustrate how barriers can be removed.

Example of Principle 1: **When reviewing the work to be done, take into account the diverse ways in which the work can be accomplished.**

Shimen Ibrahim applied for a director's job. Towards the end of the selection interview, Shimen mentioned that, because she practices Islam she would prefer to have Fridays off because this is a holy day. She also noted that, in her current organization, there was an assigned prayer room for Muslims, and she wondered if such a facility was available in this organization.

Aware of diversity in the workplace and the duty to accommodate, the Board had given previous thought to the requirements of this director's job. Board members had concluded that the responsibilities of this position could be met by someone on a flexible work schedule. Although no prayer room currently existed in their organization, they had heard of organizations that had designated a quiet room for employees to use for prayer and for accommodating other needs of designated group members. Accordingly, they advised Shimen that their organization values diversity and makes every effort to accommodate employees' needs through flexible work schedules. They noted that, if Shimen were to be identified as the successful candidate, the manager would discuss with her whatever accommodation she felt she required after making her an offer of employment.

Issues addressed in this example:

- Recognizing the duty to accommodate to the point of undue hardship
- Recognizing that work can be effectively accomplished in diverse ways

Example of Principle 2:   **Ensure that all qualifications are required to do the work, and are clearly defined and barrier-free.**

Helen Roy was staffing a key job that required making informal presentations to widely varied groups. The previous incumbent, Janet Yoshida, had been an exceptional speaker who could "spellbind" a group with her speaking skills. Helen thought that if she could find someone with speaking skills like that, it would be a real asset. These presentations were key to meeting the organization's objectives. With little hesitation, Helen drafted a description of the communication skills she expected of the successful candidate: "Strong presentation skills: states ideas clearly, uses an energetic and enthusiastic style of communication, and gets ideas across through the appropriate use of humour." These were the behaviours she wanted the Selection Board to look for throughout the interview, and especially during the informal presentation each candidate would make to the Board.

Thinking that the staffing officer could help to further define this qualification, Helen sent him the draft. When she met the staffing officer later, Helen was glad that she had sought his opinion. As he explained, the communication behaviour of stating ideas clearly made good sense; the job definitely needed someone who could communicate clearly. However, the other two behaviours were rather narrow, and could present barriers to individuals and groups. For example, being energetic and enthusiastic represents one effective communication style; but there are many other approaches that can have the desired impact. For example, depending on the situation and group being addressed, a measured and thoughtful approach can be equally, if not more, compelling. As well, what is considered humorous can be different across individuals and cultures. The staffing officer suggested that the last two behaviours be replaced by: "speaking in a manner that holds the audience's attention" (this broader behaviour could capture a variety of effective communication styles), and "adapting the content and style of communication for the audience" (this behaviour would capture the requirement of speaking effectively with varied audiences).

Issues addressed in this example:

- Lacking awareness of personal cultural assumptions
- Consulting with individuals knowledgeable about diversity
- Defining qualifications broadly and inclusively enough to capture the full diversity of ways in which the work can be effectively performed

Example of Principle 3:   **Choose or develop assessment instruments that are valid and reliable, and that provide candidates with an equal opportunity to demonstrate their qualifications.**

The Selection Board was considering what assessment approach to use to evaluate the qualification of "problem solving". They decided to reject the possibility of assessing candidates' problem-solving ability based on a review of their CVs because candidates had not been advised to highlight any particular types of accomplishments when they submitted them. Accordingly, that source of information would not be reliable. They considered the possibility of having candidates make a presentation to the Board on the most important job-related problems they had solved, after which the Board would rate each candidate.

However, as one board member pointed out, some candidates from certain cultural backgrounds tend to be modest when it comes to recounting their accomplishments; as a result, that approach could put such candidates at a disadvantage. However, that disadvantage could be removed if the Board had the opportunity to ask follow-up questions after each presentation.

Building on this idea, one board member suggested a case study approach, in which candidates would be presented with a written description of problem situations typically encountered in the position. Candidates could be given time to analyze the descriptions and to prepare written diagnoses of the problems and their suggested approaches to dealing with them. Then they could describe their diagnoses and proposed solutions to the Board, after which, the Board could ask follow-up questions. This approach would provide each candidate with oral and written ways to demonstrate the qualification, and would also give the Board a chance to ensure that sufficient information was available to assess each candidate.

Issues addressed in this example:

- Using assessment approaches that provide reliable information
- Being aware of potential barriers in assessment approaches

Note: This example of Principle 3 above is not meant to suggest that CVs cannot be used to screen candidates, or that asking candidates about their accomplishments is a biased assessment approach. Both approaches can be valid, fair and reliable when conducted appropriately. As well, no assessment instrument is ideal for assessing all qualifications in all situations. Each assessment instrument has advantages and disadvantages depending on the situation. For example, structured interviews can be highly valid, reliable, and fair. However, they have the disadvantage of being relatively costly in certain situations (e.g., interviews are rarely used to screen hundreds of candidates at the outset of a selection process). The choice of appropriate assessment instruments depends on many factors.

Example of Principle 4: **Provide candidates with the information that they need on the assessment process.**

Manjit Kaur Dhaliwal was pleased to see the notice on the Internet announcing that a position in her area of specialization was being staffed. She decided to apply. Manjit hoped that her experience in *this* selection process would be more successful than her previous experience applying for a public service job. In that earlier process, she had reached the interview stage; however, the interview had not gone as well as she had hoped. Manjit had been perplexed by the Board's line of questioning about her working relationships with other employees, her problem-solving abilities, and the like. On a few occasions, Manjit attempted to switch attention to the university degrees she had earned outside Canada and the hard work that had accompanied those achievements. In each instance the Board went on to other subjects. Manjit wondered why the Board seemed to be more interested in peripheral issues than in her key qualifications, namely her specialized degrees.

A few weeks after submitting her application for this second job, Manjit received a call from the human resources office to set a time for an interview for the job. After setting the interview date and advising her that the interview would last an hour, the staffing representative asked Manjit if she had any questions about the process. Manjit took the opportunity to recount her earlier interview experience, and to ask whether she could expect this Board to ask questions about her university degrees and academic achievements. The staffing representative then remembered that in certain cultures, employers place considerable emphasis on academic achievement. He indicated the qualifications that the Board would be assessing in the interview, and how these related to information in the Statement of Qualifications for the job. He also took the opportunity to outline the general nature of selection processes in the Public Service, and to highlight the importance of reading the Statement of Qualifications in any selection process. Manjit appreciated the information; and the staffing representative made a mental note to himself that in future when booking interviews, he would make a point of providing candidates with information on the qualifications that would be assessed in the interview.

Issue addressed in this example:

- Providing information to reduce pre-existing gaps in candidate familiarity with the assessment and selection process

Example of Principle 5:   Gather assessment information in a way that provides all candidates with an equal opportunity to demonstrate their qualifications.

When the candidate, Ken Roberts, entered the room, board members were mildly surprised. From the candidate's name, they had expected to meet a white person. However, Mr. Roberts did not appear to be white. Some board members thought that he might be Asian, others thought that he might be Middle Eastern, or biracial. Knowing that culture affects people's behaviour, they were now less sure about how Mr. Roberts might behave in the interview. As well, some board members were less sure about how they should behave towards him. Should they greet him in a certain way to make him feel welcome? Were there other things they should do, or avoid doing, to help him feel at ease? Following the lead of the chairperson, they shook his hand and greeted him warmly.

As the interview got underway, board members noticed that the candidate answered questions confidently and in sufficient detail, without additional prompting. Some board members thought that he paused for an inordinate amount of time before answering each question. These board members were not sure what to make of this, and the silence made them feel uncomfortable. As the interview progressed further, they continued to allow him sufficient time to collect his thoughts before answering, and his responses continued to be complete. In turn, board members who had initially felt uncertain about how to behave began to feel more comfortable. They remembered that making assumptions about a person's culture based on such characteristics as name, appearance or accent can be misleading. They also recalled that no one can know every culture and sub-culture, and that there is no "recipe" for behaviour toward members of a particular group. By being themselves and showing respect for each candidate, and for differences in communication styles, board members were able to give all candidates an equal opportunity to demonstrate their qualifications.

Issues addressed in this example:

- Trying to categorize and make assumptions about a person based on a name or visible characteristics
- Adjusting your behaviour to the candidate, while still being yourself and demonstrating respect

Example of Principle 6:   Evaluate candidates' qualifications based on work-related assessment criteria, avoiding sources of potential bias.

Karen Moran was a hard-working and highly effective manager. As a result, she had moved quickly from her first entry-level position to her current responsibilities, and often served on Selection Boards.

One day, when reviewing evaluations of candidates with other board members, she realized that there was often a discrepancy between her rating and others'. When black candidates performed poorly, Karen's ratings were lower than those of other board members, although when black candidates performed well, her ratings were similar to the ratings of others. She wondered why: "Are other evaluators too generous, and my evaluation is correct? Or are they correct, and I am too harsh?"

She took some time alone and reflected further: "I am black myself. I value hard work and competence, and don't appreciate it when people assume that I got where I am because of a special program rather than my competence. So, perhaps when I see black candidates, I expect them to be like me, and I ask too much? Perhaps I have a different standard for them? Could it be that my judgments are also influenced by race, even though I have fought my whole life against racist assumptions?" So Karen started thinking about how she could check this out and, if she found that she *was* applying a different standard, how she could control it. She came up with the following strategy. When assessing candidates who are black, I'll ask myself: "What if this person were a member of another race? Would my evaluation be the same?" Unless the answer is "Yes, I would make the same evaluation," but there is a possibility that my evaluation is not objective. If that is the case, I'll do the evaluation again, based solely on work-related criteria.

Issues addressed in this example:

- Racial issues interfering with the accurate evaluation of candidates
- Using self-reflection and "what if" questions to increase the accuracy of assessment
- Focusing on work-related qualifications

Removing Barriers to the Fair Assessment of Aboriginal Peoples

Introduction

The *Employment Equity Act* defines Aboriginal peoples as "persons who are Indians, Inuit or Métis." The Treasury Board "Employee Self-Identification Form" provides the following definition:

> An Aboriginal person is a North American Indian or a member of a First Nation, a Métis, or Inuit. North American Indians or members of a First Nation include status, treaty or registered Indians, as well as non-status and non-registered Indians.

The *Employment Equity Act* requires employers to identify and remove barriers to employment, institute positive policies and practices, and make reasonable accommodations to achieve representation of Aboriginal peoples in the employer's workforce proportionate to labour market availability.

When the federal Public Service is examined as a whole, representation of Aboriginal peoples meets labour market availability (See the Treasury Board Secretariat Annual Report, *Employment Equity in the Federal Public Service 2000-2001*.) By helping to ensure that the competence and qualifications of Aboriginal peoples are fully recognized, applying the Principles of Fair Assessment can contribute to both maintaining the representation of Aboriginal peoples and removing barriers to their advancement.

⇒ Annual reports on the representation of employment equity designated group members can be found on the Web site of the Treasury Board Secretariat, Employment Equity Division:
http://www.tbs-sct.gc.ca/ee/index_e.asp

Applying the Principles to remove barriers

It is important to remember that the Principles of Fair Assessment are applicable regardless of the cultural or racial background of board members, human resource personnel, or candidates. The Principles do not represent special treatment of any group. To the contrary, their application helps to ensure the fair assessment of *all* candidates.

The following section presents examples of how one can put the Principles into action to remove barriers that may exist in the assessment of Aboriginal peoples. The examples below are meant to be illustrative rather than definitive because Aboriginal people differ widely, not only between

particular groups, but also within each group. Because of this diversity, the barriers that Aboriginal people may face are also varied.

The problem depicted in each example is based on a real incident or systemic barrier which an Aboriginal person may encounter. The details, including names, and endings of the stories have been modified to ensure anonymity and to illustrate how barriers can be removed.

Example of Principle 1: **When reviewing the work to be done, take into account the diverse ways in which the work can be accomplished.**

Mary Malcolm, a Métis with 12 years experience as an office administrator for a major petroleum company, decided to apply for a federal public service job that would provide new opportunities and challenges. Mary's Settlement is only eight kilometres from her current workplace. As well, her extended family is her main support, enabling her as a single mother to maintain her rather stressful, but well-paid position. If she were successful in applying for the new job, she would need to move to a new community.

In the interview for the new job, Mary asked about the possibility of a compressed work week and the availability of day care. The board members had not given previous thought to the possibility of a flexible work schedule for this position, but responded that, if Mary were offered the position, the manager would discuss with her whatever accommodations needed to be made. Regarding day care, they noted that, although no such facility existed in their building, day care was available nearby. As well, human resource personnel could put her in touch with an organization that supplies information on local day care providers. In their deliberations later, the Selection Board identified Mary as the successful candidate. The manager's review of the position's responsibilities indicated that a flexible work schedule was possible.

Issues addressed in this example:

- Recognizing the duty to accommodate to the point of undue hardship
- Recognizing that work can be accomplished in diverse ways

Example of Principle 2: **Ensure that all qualifications are required to do the work, and are clearly defined and barrier free.**

Jules Mukula was preparing to staff a vacant middle management position. The incumbent would be responsible for providing service to the public through a large staff of administrative personnel. In considering the responsibilities of the position and the qualifications required, Jules reviewed the job description. He also looked at the Statement of Qualifications that had been used when the job was staffed three years ago and noticed that his predecessor had specified the qualification of a university degree in business administration.

In Jules' view, the job *did* require an excellent understanding of business administration; specifying such a degree would eliminate less qualified applicants. However, thinking about it further, Jules realized there were other ways to obtain a sound knowledge of business administration. For example, this knowledge could be obtained through other types of educational programs and through on-the-job experience. In fact, in Jules' view, on-the-job experience could sometimes be a better "teacher". Jules also thought about the pool of job applicants in the area, including the sizeable Aboriginal community. Based on his dealings with

the community, Jules knew that some had a university degree, while others were graduates of band management courses offered by universities, and also had experience working with private sector companies and Aboriginal organizations. Requiring a university degree could exclude excellent applicants who had, in Jules' view, the equivalent of a university degree in business. Based on these considerations, Jules decided to specify "a university degree in business administration, or an acceptable combination of education, training, and/or experience."

Issue addressed in this example:

- Specifying the qualifications required to do the work broadly enough to include the full diversity of qualified applicants

Note: *The Standards for Selection and Assessment* provide for alternatives to university graduation for positions outside the Scientific and Professional Category. For further information on providing alternatives to post-secondary training and to university graduation, please consult the *Standards*.

Example of Principle 3: **Choose or develop assessment instruments that are valid and reliable, and that provide candidates with an equal opportunity to demonstrate their qualifications.**

Yvon Gagnon, a human resources consultant, was preparing to recommend options for assessing the qualification of "service orientation" for a program officer job. The position involved considerable contact with the public, and occasional dealings with clients who could be very vocal in expressing their dissatisfaction with services received. Yvon initially thought that a role play might be an appropriate approach. For example, a Selection Board member could take the role of an unhappy client who was highly confrontational. The Board would then have the opportunity to see which candidates would lose their composure, and which candidates would successfully address the client's concerns.

As he thought about developing a rating guide for such a role play, Yvon's initial idea was that appropriate candidate behaviour would involve dealing professionally and assertively with "the client". However, Yvon then recalled that certain candidates from varied cultural backgrounds, such as Aboriginal peoples, may deal with confrontation in other, equally effective, ways. Yvon realized that the rating guide would need to accommodate a variety of effective ways to deal with "the client."

Issue addressed in this example:

- Recognizing that a variety of behaviours can produce equally effective results

Example of Principle 4: **Provide candidates with the information that they need on the assessment process.**

When staffing a vacant position, a federal organization decided to seek Aboriginal applicants from across the country, rather than limiting the search to the major city where the organization was located. Accordingly, they placed ads in Aboriginal newspapers and used a variety of other means to attract Aboriginal applicants.

The recruiters thought that, outside major cities, Aboriginal applicants might be less familiar, on average, with federal selection and assessment processes than those who lived in major centres with a large federal presence. So they decided to provide an information package to all applicants that briefly described the selection and assessment process. The package provided such information as: type of assessment instruments (e.g., multiple-choice test, interview); qualification(s) measured by each instrument; details of administration (e.g., duration, group or individual test); and an indication of how the assessment results would be used (e.g., whether some results would be given greater weight than others). Because one of the assessment instruments was a test from the Personnel Psychology Centre of the Public Service Commission (PSC), the package included a fact sheet on the PSC test that provided sample questions and answers. Following standard procedure, the organization also provided a telephone number for applicants to call for further information.

Issue addressed in this example:

- Providing information to reduce pre-existing gaps in candidate familiarity with the assessment and selection process

Example of Principle 5:   Gather assessment information in a way that provides all candidates with an equal opportunity to demonstrate their qualifications.

Al Fox had spent most of his life living and working with Aboriginal peoples. He had gained a reputation as a skilled and reputable worker through his experience in numerous short-term government contracts and seasonal work in many industries. Al applied for a vacant position in the federal Public Service, and was subsequently interviewed. Although he had never experienced such a lengthy and formal interview process, he felt confident that the interview had gone well.

In their deliberations after the interview, however, Selection Board members decided that Al was not qualified for the position. They were concerned about Al's self-confidence and sincerity based on: his failure to maintain eye contact with them, his hesitancy to offer details about his proposed solutions to practical problems that the Board presented, and his reluctance to describe his personal successes in the workplace. There was also a shared concern that Al had not held a permanent long-term position; as one board member stated, in his view, this work pattern indicated instability and unreliability.

A few months later, when one of the board members attended a workshop on diversity, she learned that, in traditional Aboriginal culture, limited eye contact can mean respect for decision-makers and persons with authority, individual accomplishments are not highlighted, and in formal or semi-formal situations, such as an interview, answers may be brief, with little, if any, elaboration. As well, work histories of some Aboriginal candidates that may appear to be "spotty" can actually be the result of limited availability of work, or government contract conditions, such as limited funding, rather than poor work habits. Accordingly, board members should disregard eye contact, probe for more information in the interview and/or use reference checks, and avoid jumping to conclusions about work history.

Issues addressed in this example:

- Lacking awareness of personal cultural assumptions
- Failing to recognize the influence of culture on communication
- Lacking awareness of the need to adjust information gathering approaches and consider other sources of information

Example of Principle 6:   **Evaluate candidates' qualifications based on work-related assessment criteria, avoiding sources of potential bias.**

After completing an interview and stepping out of the room for a brief break, Selection Board members noticed their last candidate for the day, John Ermineskin, sitting in the waiting area. On reconvening after the break, one board member remarked to the others: "I guess we'll wrap up this last interview fairly quickly. Mr. Ermineskin doesn't seem to be too interested in the job." When asked the basis for this statement, he replied: "Look at his clothes; anyone who arrives for an interview dressed in a baseball cap, jeans and running shoes can't really want the job. It's disrespectful. And don't tell me that culture has anything to do with it. Our previous candidate was also Aboriginal, but he was very well dressed in a suit and tie."

The other board members disagreed with him, noting that wearing a suit and tie to an interview doesn't necessarily mean that the person is seriously interested in the job. They pointed out that different cultures have different ideas about appropriate attire for a job interview and, even in the same culture, people can have different views on this. Most fundamentally, they noted that what a candidate wears to the interview is irrelevant since the Board should assess qualifications, not manner of dress. As one board member noted: "Mr. Ermineskin may prove to be the most or the least qualified candidate; we won't know until after we've interviewed him."

Issues addressed in this example:

- Being aware of personal cultural assumptions
- Being aware of individual differences within a given cultural group
- Evaluating candidates based only on factors related to the work

Summary

Fair assessment in a diverse workplace rests on a firm legal foundation that recognizes the right to equality in Canada. The six Principles of Fair Assessment described in this document provide managers and human resource personnel with guidance in making the many choices and decisions required in a selection process.

Principle 1:   When reviewing the work to be done, take into account the diverse ways in which the work can be accomplished.

Principle 2:   Ensure that all qualifications are required to do the work, and are clearly defined and barrier-free.

Principle 3:   Choose or develop assessment instruments that are valid and reliable, and that provide candidates with an equal opportunity to demonstrate their qualifications.

Principle 4:   Provide candidates with the information that they need on the assessment process.

Principle 5:   Gather assessment information in a way that provides all candidates with an equal opportunity to demonstrate their qualifications.

Principle 6:   Evaluate candidates' qualifications based on work-related assessment criteria, avoiding sources of potential bias.

Although these six Principles for fair assessment are straightforward, putting them into practice can present challenges because people are subject to personal and cultural biases. A key to controlling bias in assessment, and fully applying the Principles, is to increase one's awareness of the nature and source of bias. Section III of this document provides important information in this regard.

Finally, each selection process is unique and provides new opportunities to learn from experience in applying the Principles. Such thoughtful application will contribute to ensuring that the federal Public Service is comprised of individuals who are qualified to do their jobs and representative of the diversity of Canadians.

Appendix A:
Additional Information on the Legal Framework

Canadian law clearly recognizes the right to equality of people, prohibits discrimination on a variety of grounds, and requires that barriers to employment be identified and removed, and that accommodations be made for members of the four designated employment equity groups. This appendix provides further information on the legal foundation for fair assessment in a diverse work place.

1. *Canadian Charter of Rights and Freedoms* (1982)[1]

The *Canadian Charter of Rights and Freedoms* provides for the following equality rights:
> (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.
> (2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability (Section 15 (1), (2)).

In addition, Section 27 specifies that: "This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians."

⇒ The Charter and the Acts below can be found on the Justice Department Web site: http://laws.justice.gc.ca/en/index.html

2. *Official Languages Act* (1988)

One purpose of the *Official Languages Act* is to ensure the equality of status and equal rights and privileges in the use of English and French in federal institutions. Accordingly, Section 39 (1)(a) specifies that: "The Government of Canada is committed to ensuring that English-speaking Canadians and French-speaking Canadians, without regard to their ethnic origin or first language learned, have equal opportunities to obtain employment and advancement in federal institutions."

3. *Canadian Multiculturalism Act* (1988)

The *Canadian Multiculturalism Act* (CMA) is "an Act for the preservation and enhancement of multiculturalism in Canada." While confirming the constitutional rights of Aboriginal peoples and the status of Canada's two official languages, Section 3 (1)(a) of the Act declares it to be the policy of the Government of Canada to "recognize and promote the understanding that multiculturalism reflects the cultural and racial diversity of Canadian society and acknowledges the freedom of all members of Canadian society to preserve, enhance and share their cultural

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[1] The equality provisions of the Charter came into force in 1985.

heritage." As well, the Government of Canada is committed to a policy of eliminating any barriers to the equitable participation of individuals and communities of all origins in shaping all aspects of Canadian society (Section 3(1)(c)), and ensuring individuals receive equal treatment and equal protection under the law, while "respecting and valuing their diversity" (Section 3(1)(e)).

The CMA declares that all federal institutions will as a matter of policy "ensure that Canadians of all origins have an equal opportunity to obtain employment and advancement in those institutions" (Section 3 (2)(a)).

4.   *Employment Equity Act* (1995)

The purpose of the *Employment Equity Act* (EEA) 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" (Section 2).

The EEA requires employers to identify and remove barriers to the employment of persons in the four designated groups, and to institute positive policies and practices and make reasonable accommodations to ensure that persons in the four designated groups achieve representation in the employer's workforce proportionate to their labour market availability (Section 5).

5.   *Canadian Human Rights Act* (1998)

The purpose of the *Canadian Human Rights Act* (CHRA) is: ". . . to give effect . . . to the principle that all individuals should have the opportunity equal with other individuals to make for themselves the lives that they are able and wish to have and to have their needs accommodated, consistent with their duties and obligations as members of society, without being hindered in or prevented from doing so by discriminatory practices based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability or conviction for an offence for which a pardon has been granted" (Section 2).

As described in its purpose, the *Canadian Human Rights Act* (CHRA) stresses the obligation to provide accommodations, commonly referred to as "the duty to accommodate."

The CHRA establishes an exception to a finding that a practice is discriminatory if it is based on a "*bona fide* occupational requirement" (BFOR) (Section 15(1)(a)). However, for a practice to be considered to be based on a BFOR, "it must be established that accommodation of the needs of an individual or class of individuals affected would impose undue hardship on the person who would have to accommodate those needs, considering health, safety and cost" (Section 15(2)).

Supreme Court rulings have further defined the employer's obligations for providing accommodations. The Meiorin decision[2] established a test to determine if an employment

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[2] *British Columbia vs. British Columbia Government and Service Employees' Union* (BCGSEU) (Sept. 1999), known as "Meiorin".

standard is a BFOR (i.e., considered an exception to a finding of discrimination and thus permissible). The employer must be able to show that: 1) the purpose of the standard or requirement is rationally connected to the performance of the job; 2) it was adopted in good faith ("*bona fide*") in the belief that it was necessary to accomplish the purpose; and 3) the requirement is reasonably necessary to accomplish the purpose for which it was adopted. The employer must show that the requirement is not excessive and that accommodation would result in undue hardship taking into consideration health, safety and cost. If the discriminatory requirement meets these three criteria, it is considered a BFOR and can be maintained. It is important to note that the term "standards" used in the context of the Meiorin decision includes qualifications set out in statements of qualifications.

⇒   Further information on *bona fide* occupational requirements and on the duty to accommodate is available from the Canadian Human Rights Commission: http://www.chrc-ccdp.ca/publications/index.asp?l=e

6. *Public Service Employment Act* (1993)[3]

The *Public Service Employment Act* (PSEA) governs employment in the Public Service of Canada. A cornerstone of the PSEA is merit; that is, in federal organizations subject to the PSEA, people are to be appointed to positions based on their qualifications. An intended result of applying merit is a federal workforce that is competent, non-partisan, and representative of the Canadian public.

Section 10(1) of the PSEA prescribes that "appointments to or from within the Public Service shall be based on selection according to merit." This is known as "relative merit," indicating that the person appointed must be the person who is the best qualified from among those who participate in a selection process.

The PSEA also provides for what is known as "individual merit." Under "individual merit," candidates are assessed against a "standard of competence . . . rather than . . . against the competence of other persons" (Section 10(2)). "Individual merit" is applied only in circumstances prescribed by the *Public Service Employment Regulations*.

Whether relative or individual merit is applied, processes which accurately assess the qualifications of diverse candidates best respect merit.

The PSEA also specifies that assessment of any qualification, except language, is to be conducted in either English, or French, or in both official languages, at the option of the candidate (Section 16(2)).

7. *Standards for Selection and Assessment* (2001)

Under the existing PSEA, the Public Service Commission is responsible for establishing standards that govern how candidates are selected and assessed.[4] Section 12(3) of the PSEA,

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[3] Bill C-25, the *Public Service Modernization Act*, was tabled before Parliament, February 6, 2003. Once passed into law it will, *inter alia*, replace the current PSEA.

prohibits discrimination in the prescription of the standards, against any person by reason of race, national or ethnic origin, colour, religion, age, sex, marital status, family status, disability or conviction for an offence for which a pardon has been granted.

In the *Standards for Selection and Assessment*, the Public Service Commission describes four generic standards that apply to selection and assessment. Standard 3 provides for alternative assessment methods in certain circumstances to allow all candidates to be assessed in a way that preserves merit:

> Assessment methods must treat all candidates in an equitable and non-discriminatory manner. Equitable assessment does not necessarily require the use of the same assessment methods or sources of information for all candidates, rather, accommodation of a candidate who is a member of a designated group ensures that each candidate is assessed according to his or her own personal characteristics rather than presumed group characteristics. . . . In all cases, the use of different assessment methods or sources of information for different candidates must be justified on the basis that such differential usage provides for a more accurate assessment and that the information gathered from these different methods or sources is comparable.

⇒ The *Standards for Selection and Assessment* can be found on the Public Service Commission Web site:
http://www.psc-cfp.gc.ca/staf_dot/stand_selec/index_e.htm

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[4] Bill C-25, as tabled before Parliament February 6, 2003, would transfer the authority to establish standards from the Public Service Commission to the employer, Treasury Board.

Guidelines for Fair Assessment in a Diverse Workplace: Removing Barriers to Members of Visible Minorities and Aboriginal Peoples
Feedback Questionnaire

<u>Please indicate your response by checking one box for each question.</u>

Question 1

The content of this document is:

☐　very useful   ☐　somewhat useful
☐　useful   ☐　not useful

Question 2

The structure of this document makes searching for and finding information:

☐　very easy   ☐　somewhat difficult
☐　easy   ☐　very difficult

Question 3

This document is:

☐　too short   ☐　just the right length   ☐　too long

Question 4

Is the document complete?

☐　yes   ☐　no

If you answered "no", what additional topic(s) would you like to see covered?

_____

_____

_____

Question 5

Would you recommend cutting out any part of the document because it is not needed or not useful?

☐   yes   ☐   no

If you answered "yes", which part(s) do you recommend cutting and why?

_____

_____

_____

Question 6

Overall, how would you rate this document?

☐   excellent   ☐   good
☐   very good   ☐   poor

Please provide any comments or suggestions for improving the next version of these Guidelines. We welcome your feedback.

_____

_____

_____

Question 7

If you have any examples that illustrate barriers to fair assessment or the removal of barriers to fair assessment, please briefly describe in the space provided or on an additional page.   These examples may be used to revise the Guidelines or in the preparation of related training materials.

Note: Examples will be modified sufficiently to ensure that no individuals or organizations can be identified.

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_____

Return the questionnaire by fax to the Research and Development unit of the PPC at (613) 947-0496 or by mail to:

Personnel Psychology Centre
300 Laurier Avenue West
17th floor, Room B1713
Ottawa, Ontario
K1A 0M7