

This document is sourced from BC Aboriginal Education Partners

Employment Equity Toolkit for Recruiting and Retaining Educators of Aboriginal Ancestry in British Columbia

*A guide for school districts on how to apply for a Special Program
exemption under the BC Human Rights Code*

January 16, 2007 (BCHRT REVIEWED)

TABLE OF CONTENTS

A letter from the BC Aboriginal Education Partners

A letter of support from the BC Human Rights Tribunal (to include if possible) - comment

PART ONE - INTRODUCTION

1.0 INTRODUCTION TO EMPLOYMENT EQUITY PROGRAMS

- 1.1 What is employment equity?
- 1.2 What is an employment equity program?
- 1.3 Why do we need employment equity programs?
- 1.4 Who supports employment equity programs within the British Columbia Education System?

2.0 BC HUMAN RIGHTS TRIBUNAL SPECIAL PROGRAMS EXEMPTIONS

- 2.1 Overview of the BC Human Rights Tribunal and Special Program Exemptions

PART TWO – THE PROCESS

3.0 THE PROCESS FOR SEEKING A SPECIAL PROGRAM EXEMPTION

- 3.1 Special programs: The Process
- 3.2 Special programs: Case Studies
- 3.3 Employment equity programs: The Process
- 3.4 Employment equity programs: Case Studies

APPENDICES

- A Key Definitions
- B Legal Framework
- C Employment equity program Mandatory Requirements (Flowchart)
- D Special Programs Approvals Granted
- E Letter of Commitment – BCTF/BCPSEA (to be scanned)
- F Work Force Survey (to be drafted)
- G Special Program Approval Checklists (to be drafted)

Letter from the BC Aboriginal Education Partners

Dear Colleagues,

This toolkit is designed as a resource for school districts, local teachers' unions and administrators to support employment equity for educators of Aboriginal ancestry within the school districts of British Columbia (BC).

Aboriginal peoples are integral to the social fabric of Canada and to the unique cultural richness celebrated in BC. Presently, this reality is not accurately reflected within the human resources of our education system - a system that has traditionally employed very few individuals of Aboriginal ancestry. One of the three top priorities of the BC Aboriginal Education Partners is Employment Equity, and one of the key objectives of the Partners is to increase the number of teachers of Aboriginal ancestry in the BC education system.

Increasing the number of educators of Aboriginal ancestry in BC will not only provide support for Aboriginal learners, but will also increase understanding and awareness of Aboriginal culture and history for all teachers and students in BC's schools. While employment equity initiatives may be a natural fit for school districts that have a high population of Aboriginal learners, we encourage all school districts to implement an employment equity program or formal employment equity strategy.

The Education Partners are proud to support employment equity for Aboriginal peoples and endorse this *Toolkit* to assist with increasing the number of educators of Aboriginal ancestry in BC.

Thank you,

The Education Partners of British Columbia:

First Nations Education Steering Committee
Indian and Northern Affairs Canada
BC School Trustees Association
BC Principals' and Vice Principals' Association
BC School Superintendents Association
Métis Nation of BC
Union of BC Indian Chiefs

First Nations Schools Association
BC Teachers' Federation
BC College of Teachers
Ministry of Education
BC Confederation of Parent
Advisory Councils

"We, the undersigned, acknowledge that Aboriginal learners are not experiencing school success in British Columbia. We state our intention to work together within the mandate of our respective organizations to improve school success for Aboriginal learners in British Columbia."

Education Partners Memorandum
of Understanding, 1999

PART ONE - INTRODUCTION

1.0 INTRODUCTION TO EMPLOYMENT EQUITY PROGRAMS

1.1 What is employment equity?

Employment equity is an employment concept which endeavors to establish a workplace environment which is free from barriers and discrimination, and that reflects the diversity within the community at large. Employment equity is a collection of tools that incorporates policies, protocols, programs and practices that are designed to remove or mitigate barriers in employment that adversely impact identifiable groups of people.

1.2 What is an employment equity program?

An employment equity program is a program designed to ameliorate the conditions of individuals or groups who are disadvantaged because of race, colour, ancestry, place of origin, physical or mental disability or sex, and achieves or is reasonably likely to achieve that objective. An employment equity program is a major employment initiative which aims to achieve a workforce that is representative of the diversity of the available labour force in the general population. Employment equity involves the identification and elimination of systemic barriers to employment opportunities that affect specified groups that experience historical disadvantage.¹

1.3 Why do we need employment equity programs?

Aboriginal people are a distinct group of people within Canada and Aboriginal and treaty rights are recognized and affirmed within the Constitution Act of 1982. Despite this legal recognition, the United Nations Human Rights Committee identified the situation of Aboriginal Peoples to be "One of the most pressing human rights issues facing Canadians" (1999).² As in many areas of the Canadian and BC workforces, Aboriginal people are consistently under-represented within the education system. The reasons for this under-representation are many and various. Among the challenges are the limited number of individuals of Aboriginal ancestry graduating from teacher education programs, the language of collective agreements (meaning seniority provisions or other provisions as well), as well as historical realities, ingrained stereotypes and systemic racism.

A 2004 survey by the BC Teachers' Federation (BCTF), found that there were 280 self-identified Aboriginal teachers working in BC public schools, representing less than 1% of the total teaching force³. In contrast, in 2004/2005, approximately 9.1% of the student population, numbering around 55,000 students, self-identified as being of

¹ http://www.bchrt.bc.ca/policies/special_programs_policy.htm

² http://www.pch.gc.ca/progs/pdp-hrp/docs/iccpr/session65_e.cfm#principal

³ Aboriginal Education Survey – TEACHER, March 2006, Page 8

Aboriginal ancestry and that figure is growing yearly.⁴ This gap between the number of Aboriginal students and the number of teachers of Aboriginal ancestry in the BC education system is believed to be a critical factor in the success and achievement rates of Aboriginal students. With a lack of resources and understanding of how to create sustainable diversity, *to date*, school districts have had mixed or limited success in resolving the complex issues of employment equity for Aboriginal peoples.

Many of the Education Partners have policy language that addresses the issue of improving the success of Aboriginal students in our schools, and many school districts either have Aboriginal education enhancement agreements or are working toward that goal. The Education Partners believe that increasing the number of Aboriginal educators in the public education system will serve to improve the levels of achievement and success for Aboriginal students.

The *Employment Equity Toolkit for Educators of Aboriginal Ancestry* is designed to help education stakeholders in British Columbia to:

- Increase the number of educators of Aboriginal ancestry in the provincial education system; and
- Increase awareness and understanding of issues related to recruiting and retaining educators of Aboriginal ancestry.

1.4 Who supports Employment Equity within the British Columbia Education System?

In BC, there are two main pieces of legislation that protect human rights⁵

1. In Section 15 of The *Canadian Charter of Rights and Freedoms*, the Charter states that 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. It 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.
2. The Charter is applicable nationally. Each province/territory has a Human Rights statute.
3. The purposes of *BC Human Rights Code* are to foster a society in BC where there are no impediments to full and free participation in the economic, social, political and cultural life of BC, to promote a climate of understanding and mutual respect, and to prohibit discrimination in certain areas of activity, including employment. The BC Human Rights Tribunal (BCHRT) is responsible for dealing with human rights

⁴ Of a student population of 606,399, 55,126 self-identify as Aboriginal - 2004/2005 "How Are We Doing"?, BC Ministry of Education, Aboriginal Enhancements Branch

⁵ See Appendix B for legal excerpts from the Charter and Code

complaints made under the BC Human Rights Code. The BCHRT is also responsible for approving special programs under section 42 (3) of the Code.

In regards to the BC Education system, the Aboriginal Education Partners are fully supportive of employment equity and in 1999 made it one of their three top priorities. In an evaluation of the Education Partners group, which was undertaken in December 2005, Employment Equity was still perceived as being an 'overarching priority that includes Aboriginal teacher recruitment and retention'.⁶

Additionally, employment equity has been a long time priority for the BC Teachers Federation (BCTF). The BCTF Members' Guide 2004-2005, 9.D.51-8. (Jan. 00 Ex., p. 16) outlined the following (abridged);

That the employment equity program for Aboriginal teachers include the following elements:

- *goals for achieving employment equity, including goals for having Aboriginal teachers in programs throughout the system, as well as in programs supported by targeted Aboriginal education funding;*
- *workshops for teachers and school districts to explain employment equity programs and how they work;*
- *a baseline database of teachers in BC public schools who self-identify as Aboriginal; a registry of Aboriginal teachers who hold BC College of Teachers certificates and who are seeking employment as teachers in BC;*
- *employment equity pilot projects in districts where the BCTF local and school board agree to undertake a project.*

On the 20th of May 2006, the BCTF signed a Letter of Commitment⁷ with the BC Public School Employer's Association (BCPSEA). This historic landmark commitment regarding employment equity is outlined below:

The parties recognize that Aboriginal teachers are under-represented in the public education system. The parties are committed to redress the under representation of Aboriginal teachers and therefore agree that:

- *They will encourage local school boards and teacher unions to make application to the Human Rights Tribunal under section 42 of the Human Rights Code to obtain approval for a "special program" that would serve to attract and retain Aboriginal teachers.*
- *The parties will assist local school boards and teacher unions as requested in the application for and implementation of a "special program" consistent with this letter of commitment.*

This commitment by the parties for the BCTF to proactively work with local school boards to support employment equity for Aboriginal teachers is critical. The Employment Equity Toolkit and the employment equity program within BC school districts are designed to fulfill this letter of commitment.

⁶ Evaluation of the Education Partners Group, Evaluation Report – December 7, 2005

⁷ See Appendix E

2.0 BC HUMAN RIGHTS TRIBUNAL SPECIAL PROGRAMS EXEMPTIONS

2.1 Overview

The BC Human Rights Tribunal (BCHRT) is an independent, quasi-judicial body that adjudicates human rights complaints that are covered by the Human Rights Code.

If a school district (or a person, business, organization, society, association, etc.) wants to implement an employment equity program to improve the conditions of Aboriginal people, or another disadvantaged group, they can apply to the Tribunal for approval of their special program or activity. Any approved program is deemed not to be a contravention of the *Code* for the duration of the approval.⁸

The Special Programs section of the BC Human Rights Code provides as follows:

42 (1) It is not discrimination or a contravention of this Code to plan, advertise, adopt or implement an employment equity program that

(a) has as its objective the amelioration of conditions of disadvantaged individuals or groups who are disadvantaged because of race, colour, ancestry, place of origin, physical or mental disability, or sex, and

(b) achieves or is reasonably likely to achieve that objective.

42 (3) On application by any person, with or without notice to any other person, the chair, or a member or panel designated by the chair, may approve any program or activity that has as its objective the amelioration of conditions of disadvantaged individuals or groups.

The BCHRT uses the term **Special Programs** to refer to two subcategories: **special programs** and **employment equity programs**. A comparison chart follows:

BCHRT SPECIAL PROGRAMS	WHAT IT DOES For example;	EXAMPLE IN ABORIGINAL EDUCATION CONTEXT
Special Program	Permits hiring to specific groups because the audience these positions will be serving has unique needs. Sometimes the focus is the disadvantaged group of potential employees.	Restricting hiring to Aboriginal people because they will be working with Aboriginal students and their families, for example an Aboriginal Support Worker position.
Employment equity program	Identifies and eliminates systemic barriers to employment opportunities that affect specified groups that experience historical disadvantage. It also involves implementation of special measures to achieve and maintain a representative workforce.	Gives hiring preference to persons of Aboriginal ancestry for regular teacher or teacher assistant positions (positions that involve working with the larger student population and not just Aboriginal youth).

⁸ Approval of a program can be from six months to five years

Applying for a BCHRT Special Programs Approval is not a difficult or lengthy process, and there are examples of it being done very effectively⁹. Examples of a special program could be the restricted or preferential hiring for the positions of Aboriginal Support Worker or Aboriginal Cultural Support Worker.

It would seem that gaining approval for an employment equity program however, a special measure that includes restricted or preferential hiring practices that is designed to increase the number of educators of Aboriginal ancestry throughout the education system, is less common. The purpose of this Toolkit is to provide school districts with the resources and information to apply for exemptions for both subcategories.

Employment Equity Programs may be developed and implemented without prior Tribunal approval. Section 42 (1) of the Code provides that an employment equity program that meets the Code's criteria is not discrimination or a contravention of the Code. If a human rights complaint is made against an employer that has implemented an employment equity program without prior Tribunal approval, the employer has the burden of proving that the program meets the requirements of Section 42(1). If an employer wants its employment equity program deemed not to be in contravention of the Code, it should seek the Tribunal's approval prior to implementing its program.'

BC Human Rights Tribunal

1170 - 605 Robson Street
Vancouver, B.C. V6B 5J3
(604) 775-2000 phone
(604) 775-2020 fax
(604) 775-2021 (TTY)
1-888-440-8844 toll free (in B.C.)

Email address: BCHumanRightsTribunal@gov.bc.ca

⁹ See Appendix D

PART TWO – THE PROCESS

3.0 THE PROCESS FOR SEEKING A SPECIAL PROGRAM EXEMPTION

3.1 Special Programs: The Process

This section outlines the process for applying to the BCHRT for **Approval for your Special Program for Educators of Aboriginal Ancestry**. An example of a special program might be where a school district wishes to hire an individual of Aboriginal ancestry to provide services as an Aboriginal Support Worker to students and families who are Aboriginal.

Below are templates with suggested language for each of the criteria required by BCHRT. Each template will need to be adapted to meet local circumstances however these guidelines will enable a school district or individual school to proceed with a submission for approval.

To apply for a special program approval, you must write a letter to the Chair of the BCHRT, setting out your plan and addressing all of the factors set out below. In any particular application, the Chair may require more or different information, in which case the BCHRT will contact you. The following criteria will be assessed flexibly

<p>1. Nature of the Sponsoring Organizations: Describe the nature of the organizations, or the areas of responsibility of the part of the organizations, proposing the program.</p>
<p>2. Accountability and Monitoring: Describe who in the organization will be responsible for implementation of the program, his/her job title and experience/training in the area of Aboriginal Education and why he/she is suited to implement the program. Where applicable, describe the process for on-going monitoring of the program. Indicate whether you would be able to provide reporting on the program and indicate the evaluation mechanism or process to be used.</p>
<p>3. Identification of Disadvantaged Individuals/Groups: Define as clearly as possible the designated individuals or groups which the program is designed to assist. Describe the specific nature of the disadvantage the program is designed to ameliorate. Describe the reasons why the individual or group is disadvantaged.</p>
<p>4. Benefit of the program: Describe in detail how the program will objectively improve the conditions of disadvantage experienced by the individual or group (recruitment, retention, role modeling, etc.). Provide any advice, recommendations, or support from professional organizations, community organizations, or client representatives for your proposal.</p>
<p>5. Goals, timetables and anticipated results: Describe the goal of the special program and any applicable timetables or anticipated results. (6 months to 5 years)</p>

<p>6. Duration: Describe the duration of the program or how long it will take to complete the activity.</p>
<p>7. Eligibility Criteria: Describe the criteria which will be used to assess whether an individual is eligible for participation in the program. There should be clear and objective criteria for admission to the program. Where the criteria distinguish between individuals within the group, explain how the distinctions proposed are rationally related to the scheme of the proposal. Describe any dispute mechanism process to deal with eligibility disputes.</p>
<p>8. Identification of Third Party Interests: Describe how employees and/or current service providers and recipients have been consulted about the objectives of the proposal and the impact it may have on their interests. What other organizations, unions, or associations have a direct interest in the implementation of this program activity? If there is a union or employee association involved in the workplace, ask their position on the special program. The Tribunal requires a written statement of the union's or employee association's position and will need the name of the association or union and local and the name, address and phone number for the president of the local or employee association. The approval application to the Tribunal should be copied to the employee or union representative. If there is no union or employee association, explain how you have consulted with the employees or with program service recipients. Provide a list of other local or regional organizations or associations that may be affected by the proposal, including contact names, addresses and phone numbers and their positions on the proposed program. If appropriate, the Tribunal may contact these organizations.</p>

3.2 Special Programs: Case Studies¹⁰

School District #43 (Coquitlam) - 10/01/02 to 02/27/08

Approved – Hiring restricted to persons of Aboriginal ancestry for the position of Youth Worker in the Aboriginal Program.

School District #57 (Prince George)- 08/29/00 to 08/29/10

Approved – Employment advertising and hiring restricted to persons of Aboriginal ancestry for up to 30 Aboriginal Education workers; up to 20 Aboriginal Teacher Assistants; up to 2 Counsellor (Teachers) and up to 2 Counsellor (Social Workers) in the Districts Aboriginal Education Services.

¹⁰ For further examples of Special Programs where approval has been granted by the BCHRT see Appendix D
Employment Equity Toolkit for Educators of Aboriginal Ancestry (January 16, 2007 – BCHRT Reviewed)

3.3 Employment Equity Programs: The Process

This section outlines the process for applying to the BCHRT for the **approval of your employment equity program for Educators of Aboriginal Ancestry**. An example of an employment equity program might be where a school district wishes to give preference, when hiring, to an individual of Aboriginal ancestry to provide services as an educator as a means of achieving a workforce which is representative of the school population and/or that is representative of the diversity of the available labour force. Although an employment equity program is a type of Special Program, it is slightly different in nature and the BCHRT requires different information to approve an employment equity program.

To apply for a special program approval for an employment equity program, you must write a letter to the Chair of the BCHRT, setting out your plan and addressing all of the matters set out below. In any particular application, the Chair may require more or different information, in which case the BCHRT will contact you.

This toolkit includes templates with suggested language for the BCHRT submission, addressing each of the BCHRT requirements. The templates will need to be adapted to reflect local circumstances. This will enable a school district or individual school to proceed with a submission for approval of an employment equity program. Those wishing to vary from the *Toolkit* are strongly advised to review the guidelines set out by the BC Human Rights Tribunal. The BCHRT guidelines place a focus on a continuous process of consultation between trustees, senior administration, unions, employees, parents, communities and Aboriginal peoples.

There are four key steps which need to be undertaken in order to gain BCHRT approval for your employment equity program:

- 1. ADEQUATE PREPARATION**
- 2. OBJECTIVE ASSESSMENT**
- 3. APPROPRIATE PROGRAM DESIGN**
- 4. EFFECTIVE IMPLEMENTATION**

1. Adequate Preparation

In order to meet the BCHRT requirements for Adequate Preparation, the following actions must be undertaken. The following actions can happen concurrently and there is great benefit in having consultation and communication at every stage in the process.

- 1. i Develop a Formal Policy**
 - 1. ii Assign Responsibility**
 - 1. iii Consult with Employee Representatives**
 - 1. iv Identify and Include Designated Groups**
 - 1. v Consult with Designated Groups**
 - 1. vi Develop a Communications and Education Strategy**
-

1. i Develop a Formal Policy

A School District should make a public statement of commitment to eliminating discrimination and achieving equity for individuals of Aboriginal ancestry. A school district should consult and communicate with employee representatives, in the development of this statement. This statement should be formal policy for the organization, circulated to employees and made available to job applicants and organizations representing the members of the relevant Aboriginal community (ies). Most school districts have an established consultation process for making policy. If your district has an Aboriginal Education Enhancement Agreement it may contain language relating to hiring of individuals of Aboriginal ancestry.

Template

As one strategy to increase the success of Aboriginal students, School District #500 is committed to increasing the number of educators, including teachers and administrators of Aboriginal ancestry in the employment of the district. The district has a formal employment equity program for educators of Aboriginal ancestry.

1. ii Assign Responsibility

Assigning responsibility for the implementation of an employment equity program to a senior staff person, reporting through the Superintendent to the Board of School Trustees, will strengthen the credibility of the program. The responsible manager should have the authority and resources to plan and direct comprehensive workplace strategies and not merely those related to personnel or human resource issues. The responsible manager should also have training and/or experience in dealing with Aboriginal education individuals and communities.

Template

The Superintendent of Schools shall have overall responsibility for the implementation of the employment equity program for all educators of Aboriginal ancestry. S/he shall be directly assisted by the Director of Human Resources (Personnel).

1. iii Consult with Employee Representatives

Management should always consult and communicate with employees and employee representatives concerning the assistance required to implement the employment equity program. Management and members of the specified group should work together in the preparation, implementation, and monitoring of the employment equity program.

In circumstances where one or more bargaining agents represent employees, the bargaining agents will serve as the employee representatives for the purposes of consultation with employees. The bargaining agents should work with the employer in the development, implementation and monitoring of the employment equity plan. Formal letters of support from the bargaining agents for employees would provide strong support for the application. In BC, a copy of the letter of commitment signed by the BCTF and the BCPSEA on May 20th, 2006 will suffice for the purpose of the formal letter of support for teachers.

Template

The school district has established an advisory committee for this project. The school district will ensure that the advisory committee includes representation from all Aboriginal groups which are represented in the district. The advisory committee may consist of a school trustee, a representative from each of the local teachers' union/association, the local principals' and vice principal' association, a member of the local Aboriginal Advisory Council, representative(s) appointed by the Council of the _____ First Nation(s), representative(s) from any off-reserve/Inuit or Métis organizations and the Director of Human Resources who will chair the advisory committee. The proposed membership of the advisory committee is not to be prescriptive but to act as a guide to ensure that all stake-holders are represented in the process of creating and implementing the employment equity policy. In addition the school district has met and consulted with representatives of the local teachers association. Please see their letter of acknowledgement / support attached.

1. iv Identify and Include Designated Groups

This Toolkit addresses employment equity for educators of Aboriginal ancestry and employment in the BC education system. However, when reviewing workplace and employment practices and designing corrective or support measures, employers should look beyond the designated groups to assess the effect of employment practices on all employees.

Template

For the purpose of the employment equity program for educators of Aboriginal ancestry the designated groups will include persons of Aboriginal ancestry in Canada including individuals who are First Nation, Métis, Inuit, status, non-status, reserve and off-reserve people Specifically the designated group will include any individuals who are members of the “insert name of local First Nation(s).”

1. v Consult with Designated Groups

Organizations representing designated groups should be consulted on the design and implementation of the employment equity program. These organizations are familiar with the concerns of their members, understand the barriers they face, and can assist in identifying measures that will assist them. Existing structures for consultation such as those used in developing Local Education Agreements or Enhancement Agreements should be included in the process. Systemic discrimination can affect different groups in different ways and its effects on each group must be addressed if programs are to be effective. Representatives of designated groups could participate in a committee with union and management representatives, and they might be consulted at different stages of the program’s development.

Template

The School District has held ___ meetings with representatives of the _____ First Nation(s) and the wider Aboriginal Community, including off-reserve and Métis community members, where appropriate, whose membership may be included in the designated group.

1. vi Develop a Communications and Education Strategy

Communication and education are necessary ongoing elements of an effective employment equity program. Everyone in the organization must understand the purpose of the program, how it will be implemented, who is responsible, and how to participate. Supervisors and managers require employment equity training to carry out their roles effectively. Both management and employees require education on issues such as harassment and cultural differences and need to be kept informed of developments and results.

Template

The School District has met with representatives of the _____ First Nation(s), representatives of the wider Aboriginal community and with representatives of the local teachers association. In addition, the District has held sessions with all school principals in the district. These groups are represented on the advisory committee that has been formed to assist with this project.

An information sheet providing the rationale and objectives of this project has been distributed to all employees in the district. Further information will be provided to all employees as the project moves forward.

2. Objective Assessment

In order to meet the BCHRT requirements for Objective Assessment, the following actions must be undertaken.

2. i Workforce Analysis

- **Internal Data – Workforce Survey**
- **External Data – Availability Data**
- **Data Analysis**

2. ii Employment Systems Review

2. i Workforce Analysis

A workforce analysis compares internal workforce data on current employees with external data about the availability of designated group members in the general labour force. It helps employers identify where designated group members may be under-represented in the organization or concentrated in one type of occupation, and it permits the setting of goals for overcoming those problems.

Both internal and external information is required for a comprehensive workforce analysis:

- Internal Data – Workforce Survey

Gathering information about the current composition of the workforce to determine the internal distribution of members of the designated group is essential. While employee information is usually readily available by gender, it is less common for organizations to have data on persons of Aboriginal ancestry.

Due to the sensitivity involved, such information should be gathered through a workforce survey¹¹, which requests employees to voluntarily self-identify if they are members of the designated group. New employees can be asked to self-identify on a voluntary basis on commencement of employment. However, only those employees who identify themselves to the employer, or agree to be identified by an employer as Aboriginal people, are to be counted as members of the designated group.

- External Data – Availability Data

A representative workforce will reflect the current proportion of Aboriginal people, available in the workforce from which an employer could reasonably be expected to draw. In order to determine relative levels of representation in an organization's workforce, relevant external data is required for comparison purposes.

¹¹ For more information on a Workforce Survey, visit, http://www.sdc.gc.ca/asp/gateway.asp?hr=en/lp/lo/lsw/we/ee_tools/tools/virtual_workshops/wfa/wfa-survey.shtml&hs=wzp or a sample Work Force Survey can be found in Appendix F

Availability data is considered to be a minimum standard as it reflects the situation in the current workforce. The Workplace Equity Officers located in the regional offices of Human Resources Social Development Canada can provide availability data which shows the distribution of members of the specified groups by occupational grouping in the current labour force. **While immediate goals may be based on this data, longer-range goals should be set based on the representation of designated groups in the population as a whole.**

- Data Analysis

By comparing internal and external data, employers can identify:

- Areas of under-representation or over-concentration of designated group members for each job category and level;
- The geographical area from which prospective employees are drawn;
- The number and percentages of members of the designated group in the geographical area who could potentially be considered for employment; and
- The internal pool from which designated group members could be drawn for promotion or transfer.

Template

In the 2004-2005 school year, the percentage of Aboriginal students in the public school system was 9.1%. This is expected to increase over the next five years. (Ministry of Education, How Are we Doing? 2004/05). The percentage of educators of Aboriginal ancestry falls considerably below that figure. The percentage of graduates of Aboriginal ancestry from BC teacher education programs was 2.1% in 2003 (BC College of Teachers, Survey of Recent Graduates, 2003).***

The number of Aboriginal students in this school district is approximately (insert number) which represents ___% of the total student population. The school district does not have a formal method of tracking the number of employees of Aboriginal ancestry working in the district. However both local teachers association has completed surveys of their membership asking individuals to self-identify. Based on those figures ___% of the teachers in the district are of Aboriginal ancestry.

** These statistics are published annually and posted to the Ministry of Education website at <http://www.bced.gov.bc.ca/abed/>*

*** online at <http://www.bcct.ca/forms.aspx>*

2. ii Employment Systems Review

An employment systems review is the tool used to identify the qualitative elements of an employment equity program. It identifies practices that, intentionally or not, have contributed to the under-representation of Aboriginal educators. It helps employers determine if the general non-discrimination standard of human rights law is being met and to take steps to remove barriers to equality.

Where the workforce analysis indicates under-representation of any of the designated groups in an occupational group, a review of employment systems is undertaken to determine

whether those systems have barriers to the equal participation of members of the designated groups. Examples of such barriers could include discriminatory job descriptions or culturally insensitive interviewing practices. They could also include the failure to implement and practice workplace non-harassment and diversity policies and protocols.¹²

Template

The District has reviewed its employment systems and procedures to ensure that all steps in the process, from identification of positions, through advertising and recruitment to hiring and continued employment are able to facilitate and support this project.

3. Appropriate Program Design

In order to meet the BCHRT requirements for Appropriate Program Design, the following Actions must be undertaken.

3. i Set Short and Long Term Goals

3. ii Establish Timetables

- **Quantitative Objectives**
- **Qualitative Objectives**

3. iii Identify Corrective, Remedial and Support Measures

3. iv Develop the Plan

3. i Set Short and Long Term Goals

In order for school districts to develop and implement a successful employment equity program, it is important to consider key goals over the short and long-term. These goals can serve as benchmarks for measuring success in the area of employment equity, as well as in future planning and evaluation.

Template

The long-term goal of the school district is to increase the success rate for students of aboriginal ancestry. As one of the strategies to achieve that goal the district believes that the number of educators of Aboriginal ancestry needs to be increased to reflect the Aboriginal population in the district and to provide significant role models for all students.

The short-term goal is to begin to aggressively recruit, hire and support individuals of Aboriginal ancestry to work as educators and in the district. A five year goal is that the percentage of educators of aboriginal ancestry is at least ___% (e.g., 30%) of the percentage of students of Aboriginal ancestry.

¹² Please see this website for more information on Employment Systems Review http://www.hrma-agrh.gc.ca/ee/publications/ee/esr-rse3_e.asp

3. ii Establish Timetables

Aspects of this project are long term and require increasing the number of individuals of Aboriginal ancestry who are educated as teachers to work in the public school system.

- Quantitative Objectives

Where the workforce analysis has identified under-representation of Aboriginal educators, short and long-term goals and timetables should be established for increasing representation in each job category and at each level. These goals and timetables should be based on an assessment of the number of openings likely to be available, taking into account turnover and retirement rates and expansion or contraction of the workforce, as well as the availability of qualified members of designated groups in the population from which the employer can draw.

- Qualitative Objectives

In addition to establishing numerical goals, other measures will likely be required to ensure that the workplace is a welcoming one for all employees. These measures typically take three forms: corrective, remedial and supportive measures. It is becoming common to refer to these measures as "positive policies and practices."

Whether referred to as qualitative measures or positive policies and practices, the purpose is to implement initiatives which help to create a respectful, responsive working environment for Aboriginal educators and to attract increased numbers of individuals from this under-represented designated group into the workforce. They should relate to hiring, training, promotion (where applicable) and retention of designated group members, and include provisions for reasonable accommodation for Aboriginal educators and other designated groups.

Template

Aspects of this project are long term and require increasing the number of individuals of Aboriginal ancestry who are educated as teachers to work in the public school system. However that cannot be an excuse for not starting now. Further increasing the graduation rate of students of Aboriginal ancestry in this district will increase opportunities for Aboriginal students to attend university – some to become the new teachers we need.

3. iii Identify Corrective, Remedial and Support Measures

- Corrective Measures

Corrective measures address practices that violate the *Human Rights Code*, e.g. general anti-discrimination measures such as anti-harassment policies, workplace education, non-discriminatory pay policies, or removing physical and other barriers to accessibility.

- Remedial Measures

Remedial measures are designed specifically to help designated group members overcome identified barriers which are entrenched for the most part, due to past discriminatory practices. These may be time-limited and phased out once they have achieved their purpose. Examples may include outreach recruitment, preferential or restricted hiring policies, mentorship programs, retention strategies, developmental positions, targeted training programs, reasonable accommodation policies, etc.

Remedial measures may also include exercising preference in favour of members of the designated group in hiring and training or restricting competition for some jobs to members of the designated group. These are legitimate means of achieving equity; however, limitations of this type must be agreed to by employment equity representatives and well supported by documentation outlining the specific problem being addressed.

- Support Measures

Support measures assist designated group members but are available to all members of the workforce. These include such things as flexible work arrangements or workplace childcare. Support measures are permanent changes to workplace practice.

Template

In addition to recruiting educators of Aboriginal ancestry the district recognizes the need to support these educators on an ongoing basis. A teacher-mentoring program will be provided to new teachers of Aboriginal ancestry. If possible the mentor teacher will be of Aboriginal ancestry; however this may not always be possible. A mentor who is aware of and sensitive to Aboriginal issues will be assigned in those situations. (What supports are available over the longer term?)

3. iv Develop the Plan

The employment equity plan is the program's working tool. It sets out the goals, both quantitative and qualitative, as well as the means and timelines by which they will be achieved. The employment equity plan should be an integral part of the organization's overall operational plans. Specifically, the employment equity plan should include:

- Numerical goals and timelines for increasing the representation of the under-represented designated group;
- Goals and timelines for the elimination of discriminatory barriers identified in the employment systems review and the introduction of new policies and corrective measures;
- Implementation of a communications plan;
- A schedule for implementation of remedial and support measures;
- A monitoring plan and timetable for producing monitoring reports, and
- An evaluation process to review the effectiveness of the plan.

Template

The employment equity plan will include:

- *Advertising of all positions*
 - *A specific invitation for applications from educators of Aboriginal ancestry.*
- *Recruitment*
 - *Specific initiatives will be undertaken to invite applications from Aboriginal educators identified as meeting the program goals.*
- *Hiring*
 - *Hiring criteria for all positions will include need to increase educators of Aboriginal ancestry*
- *Retention*
 - *On-going support including mentoring is an essential component of this program.*
- *Timelines*
- *Schedule*
- *Monitoring Plan*
- *Evaluation Process*

4. Effective Implementation

In order to meet the BCHRT requirements for Effective Implementation the following Actions must be undertaken.

4. i Assignment of Responsibility & Accountability

4. ii Measure Progress and Adjust as Necessary

4. iii Evaluate Effectiveness

4. i Assignment of Responsibility & Accountability

Putting the employment equity plan into effect requires the assignment of responsibility to managers and the integration of accountability into performance planning and appraisal systems. Ongoing consultation and communication are essential.

Template

As stated earlier, the Superintendent of Schools shall have overall responsibility for the implementation of the employment equity program for all educators of Aboriginal ancestry. S/he shall be directly assisted by the Director of Human Resources (Personnel). The Assistant Superintendent will meet periodically with the advisory committee established for this project to monitor procedures and review progress.

4. ii Measure Progress and Adjust as Necessary

Effective monitoring is required to measure progress and adjust the program as necessary. Monitoring allows employers to track the hiring, movement and retention of Aboriginal educators. It also provides a means of assessing the effectiveness of changes in employment policies and practices. It provides regular information about both problems and progress. Monitoring systems should include a means of tracking and analyzing statistical information as well as other feedback systems which provide opportunities for input from managers, supervisors, union representatives, employees and designated group members to assess the impact and effectiveness of the program.

Template

Progress will initially be measured by the number of educators of Aboriginal ancestry who are hired in the School District. In the longer term progress will also be assessed based on the retention of Aboriginal students in school to Grade 12, the progress or success of Aboriginal students, and the graduation rate of students of Aboriginal ancestry.

4. iii Evaluate Effectiveness

Based on the data provided by the monitoring systems established for the program, it is important to evaluate the effectiveness of the program. Program reviews or evaluations should be conducted with sufficient frequency to assist in identifying any need for changes to the program or its objectives. It is important that the program's objectives be related to the current situation in the workplace, which can be expected to change over time. In addition, the evaluation reports will facilitate accountability within the organization and communications with employees and/or client groups.

Template

Effectiveness will be assessed based on the number of educators of Aboriginal ancestry who are hired in the district and on the overall goal of the retention and success of Aboriginal students in our schools. This assessment may be assisted by the annual collection of a workforce survey.

3.4 Employment equity programs: Case Studies

To date, the BCHRT has approved two employment equity programs, one at the University of British Columbia and one at the University of Victoria, under Section 42 of the Code. This does not mean however, that school districts have not implemented employment equity programs of their own.

In a survey conducted in October 2006 by the BC School Trustees Association (BCSTA), of the 53 responding school districts, 27 indicated that they had a policy or recruitment practice with regard to encouraging the hiring of staff of Aboriginal ancestry

This also does not mean that school districts have not sought to increase Aboriginal representation in their work force. School districts with substantial numbers of Aboriginal students have advertised postings proactively in band offices and used contacts to encourage First Nations applicants. They have stated their commitment to equal opportunity. They have encouraged future teachers from their local population. They have enacted anti-discrimination policies. These may not have been part of formal employment equity programs but they are intended to serve the same end.

CONCLUSION

By implementing the ideas in the *Toolkit*, your school district will be able to ensure that individuals of Aboriginal ancestry can experience equal access to jobs and a positive working environment in which they can participate and contribute fully. Any successful employment equity program will remove barriers to employment and advancement, over time achieving a representative workforce. The removal of such barriers and the special measures that may be designed to ensure equal access to employment will allow for all personnel to benefit from treatment on the basis of merit and the provision of a supportive and fair work environment.

A large portion of the *Toolkit* is focused on getting your organization approval under the BCHRT Special Programs provisions. Examples of school districts that have done this are presented. All Special Program applicants should review the guidelines set out by the BC Human Rights Tribunal.

APPENDICES

A	Key Definitions
B	Legal Framework
C	Employment equity program Mandatory Requirements (Flowchart)
D	Special Programs Approvals Granted
E	Letter of Commitment – BCTF/BCPSEA
F	Work Force Survey (to be drafted)
G	Special Program Approval Checklists

Appendix A - Key Definitions

Aboriginal

For the purpose of this toolkit Aboriginal is defined as inclusive of First Nations, Métis, Inuit, status, non-status, reserve and off-reserve peoples.

Employment Equity

Employment equity involves identification and removal of systemic barriers in the employment practices of an organization and the implementation of active measures such as goals and timetables to alleviate the results of historical discrimination. It is a systematic process of changing those workplace practices that have acted as barriers to the employment and promotion of specific groups in society.

Employment equity program

An employment equity program is a major employment initiative, which works to achieve a workforce representative of the diversity of the population. It includes identifying under-representation or over-representation of target group members in various job classifications, reviewing employment systems where under-representation or over-representation is found and identifying barriers that inhibit equitable representation. An employment equity program is designed to eliminate the barriers and achieve a representative workforce. A genuine employment equity program is one that also involves qualitative change in how that workplace functions, what the values that govern it are, what its culture is, and how it deals with difference. Such a program is, then, an integral component of an organizational change process.

Educators

For the purpose of the *Toolkit*, educators are defined as all those specifically engaged in the delivery of an educational program. This would include teachers and teaching assistants.

School Support Staff / Personnel

For the purpose of the *Toolkit*, school support staff / personnel are defined as all individuals working within a school district, with the exception of teachers, teaching assistants, principals and vice principals and senior administrators.

Educators of Aboriginal Ancestry

Educators of Aboriginal Ancestry are individuals of Aboriginal ancestry qualified for the purpose of educating students inclusive of teachers, teaching assistants, principals and vice principals and senior administrators.

For the purpose of the *Toolkit*, a distinction has been made between Educators of Aboriginal Ancestry and Aboriginal Educators. The former refers to an Aboriginal person who may or may not choose to or be trained to share knowledge on Aboriginal culture and history, while the latter implies an educator whose focus and interest would lie in Aboriginal educational content.

Appendix B - Legal Framework

BC Human Rights Code & BC Human Rights Tribunal

The B.C. Human Rights Tribunal is an independent, quasi-judicial body created by the B.C. Human Rights Code. The Tribunal is responsible for accepting, screening, mediating and adjudicating human rights complaints..

According to the Special Programs section of the BC Human Rights Code:

42 (1) It is not discrimination or a contravention of this Code to plan, advertise, adopt or implement an employment equity program that

(a) has as its objective the amelioration of conditions of disadvantaged individuals or groups who are disadvantaged because of race, colour, ancestry, place of origin, physical or mental disability, or sex, and

(b) achieves or is reasonably likely to achieve that objective.

(2) Repealed

(3) On application by any person, with or without notice to any other person, the chair, or a member or panel designated by the chair, may approve any program or activity that has as its objective the amelioration of conditions of disadvantaged individuals or groups.

(4) Any program or activity approved under subsection (3) is deemed not to be in contravention of this Code.

42 (4) Any program or activity approved under subsection (3) is deemed not to be in contravention of this Code.

Appendix C

EMPLOYMENT EQUITY PROGRAM MANDATORY REQUIREMENTS

