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# THE INCLUSION IMPERATIVE

*MODEL HUMAN RESOURCE POLICY GUIDELINES FOR  
THE ACHIEVEMENT OF EMPLOYMENT EQUITY*





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## DISCLAIMER

Egale does not assume the compliance obligations or responsibilities of any organization, company or entity acting in the capacity of an employer.

While the below referenced policy guidelines are drafted to achieve measurable employment equity through data-informed best practices—employers have a non-delegable duty to ensure legal compliance with the labour, human rights, and employment law regimes to which they are subject.

Employers must act, therefore, with due diligence. Such diligence includes but is not limited to obtaining appropriate legal advice prior to adopting suggested policy language, whether in whole or in part.

# STATEMENT OF INVESTMENT IN INCLUSION, DIVERSITY, EQUITY, AND ACCESSIBILITY (IDEA) INFORMED HR MANAGEMENT

Organizations committed to the realization of inclusion, diversity, equity, and accessibility (“*IDEA*”) principles must invest the time, resources, and finances necessary to substantiate as lived experience the promise that is employment equity. Equity desired cannot be achieved without some measure of long-term social and capital investment.

So why invest in inclusion, diversity, equity, and accessibility?

An IDEA-informed approach to human resource management is not just a matter of ethical responsibility. It’s a strategic imperative for organizations. Specifically,

1. **Compliance with Legal Obligations:** Integration of IDEA principles in human resource practice aids employers in meeting accessibility and anti-discrimination compliance obligations under existing provincial human rights legislation.
2. **Addressing Skills Gaps and Talent Shortages:** IDEA-informed hiring practices allow organizations to ameliorate existing skills gap and talent shortages faced across industries. By removing arbitrary barriers to labor market access, organizations benefit from previously untapped or underexplored talent pools.<sup>i</sup>
3. **Enhancing Competitiveness:** IDEA enhances organizations’ market competitiveness. Research has consistently proven diverse organizations to be more innovative, dynamic, and profitable. Leveraging IDEA principles allows organizations to harness the full potential of their workforce.<sup>ii</sup>
4. **Addressing Social and Economic Inequalities:** Discriminatory hiring practices limit the economic mobility of marginalized candidates. These candidates—and the communities of which they are a part—experience disparately high rates of underemployment and unemployment; high rates of food and housing insecurity; increased health risks and reduced life expectancy.<sup>iii</sup> IDEA-informed human resource practices facilitate broader socio-economic justice.

It is of utmost importance then that organizations begin the work that IDEA requires.

Inclusive language, behaviors, and approaches must become both the habit of individuals and the standard operating procedure of systems. It must direct the way in which we design environments, institutions, and the policies and processes that inform them. This Guidance charts a path forward towards a future where economic opportunity is denied to no one.

Join us and begin.

# STATEMENT OF INTENT OF INCLUSION IMPERATIVE RESOURCE

Fair access to employment opportunities remains a largely unsubstantiated legislative promise.<sup>1</sup> This resource aims to provide 50-30 challenge participants with the guidance necessary to identify and remove barriers to equal employment opportunity; develop inclusion-informed human resource policies and practices; and increase the representation of qualified equity-denied candidates in senior executive roles. That is to achieve:

- a. 50% representation of women and nonbinary people in senior executive and board roles, as relative to the workforce availability of these statutorily designated group characteristics; and
- b. 30% representation of the following designated group characteristics, in senior executive and board roles, as relative to their workforce availability:
  1. Black and other racialized global majorities.
  2. Persons with disabilities (to include invisible, chronic, and episodic disabilities).
  3. Two-Spirit, lesbian, gay, bisexual, transgender, queer, intersex and other persons of diverse sexual orientations and gender identities (“2SLGBTQI+”).
  4. Indigenous Peoples (as inclusive of Inuit, Métis and First Nations Persons).

Challenge participants using this Guidance are encouraged to:

- Review** the human resource policy guidelines herein contained.
- Personalize** policy provisions as per your organization’s needs, including adapting to the terms of any collective agreement.
- Contact** the 50/30 Resource Help Desk for individualized policy development support.
- Ensure** policies developed comply with provincial law(s).
- Ratify** policies as per your organization’s pre-established processes.
- Conduct** organization-wide trainings.
- Ensure** newly ratified policies are communicated and made accessible to all employees.
- Measure** the efficacy of newly ratified policies through use of data analytics.
- Modify** or maintain policy provisions accordingly to reflect data analytic findings and evolving best practices.

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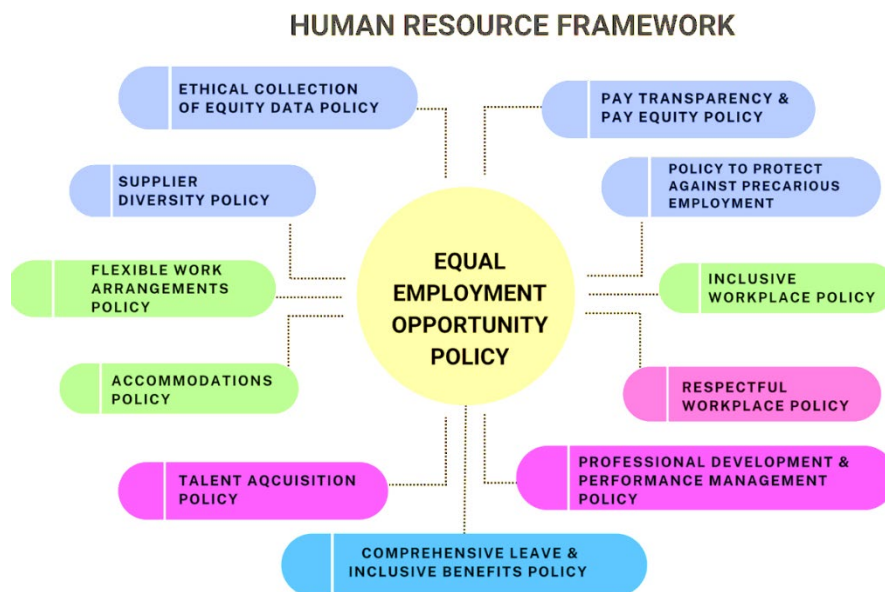
<sup>1</sup> Carol Agócs, ed., Employment Equity in Canada: The Legacy of the Abella Report. (Toronto: University of Toronto Press, 2014).

# Part I

## Equity Policies

## EQUAL EMPLOYMENT OPPORTUNITY POLICY GUIDANCE

1. Employment equity is a Canadian term of art. It was first authored by Justice Rosalie Silberman Abella in *Equality in Employment: A Royal Commission Report*.<sup>2</sup> The term obliges employers to meticulously examine workplace policies, practices, cultures, and environments for purposes of identifying and removing discriminatory barriers that hinder the full consideration, participation, and advancement of underrepresented groups.<sup>3</sup>
2. Employment equity further emphasizes the creation of environments through principles of universal design. Universal design constructs—from inception rather than afterthought—workspaces, tools, and processes that are adaptable for use by the greatest number of people as possible. This includes persons with varying abilities, preferences, and accessibility needs.<sup>4</sup>
3. This Guidance recommends that organizations adopt an equal employment opportunity policy that systemizes inclusive human resource practices. This Guidance further recommends that organizations anchor or center equal employment opportunity (“EEO”) in their human resource framework. In this way, all ancillary policies must yield to, support, and advance an organization’s identified EEO objectives.



4. At minimum, an organization’s EEO policy should be data-informed to achieve the following objectives:
  - a. Support equality in the workplace such that no person is denied the terms, benefits and privileges of employment for reasons unrelated to ability.

<sup>2</sup> Justice Rosalie Silberman Abella, “Equality in Employment: A Royal Commission Report,” (Ottawa: Minister of Supply and Services Canada, 1984). [https://publications.gc.ca/collections/collection\\_2014/rhdcc-hrsdc/MP43-157-1-1984-1-eng.pdf](https://publications.gc.ca/collections/collection_2014/rhdcc-hrsdc/MP43-157-1-1984-1-eng.pdf)

<sup>3</sup> Ibid.

<sup>4</sup> Ibid at 2-4.



- b. Correct existing conditions of disadvantage in employment as experienced by members of statutorily designated equity-denied groups.
5. This Guidance aids organizations in developing such a policy. The following provisions are recommendations only. They are based on best practices and are not mandatory or legislated unless explicitly indicated as such.

**Statement of Policy Purpose**

- a. In developing an equal employment opportunity policy, organizations should consider adopting a clear statement of purpose. This statement should define an organization’s understanding of and commitment to equal employment opportunity (“EEO”). It should also provide some measure of guidance on how an organization plans to achieve identified EEO objectives.
- b. A statement of purpose is a crucial component of any policy document. It identifies the scope of matters, activities, or behaviors that a policy aims to regulate. It articulates a policy’s objectives, providing a clear and concise expression of what a policy seeks to achieve. In the event of ambiguity or uncertainty, a clear statement of purpose provides readers with the interpretive guidance necessary to construe policy language in a manner that effectuates its intent.
- c. Organizations may find the following approach useful in developing a statement of purpose:
  - 1. **Lead** with a clear definition of equal employment opportunity or employment equity.<sup>5</sup>
  - 2. **List** or reference the statutorily protected characteristics to which the duty to eliminate barriers to employment opportunity attaches.
  - 3. **Acknowledge** the historic existence and continued presence of barriers to labour market access, promotion, and advancement.
  - 4. **Commit** to the elimination of arbitrary, discriminatory barriers to employment opportunity.<sup>6</sup>
- d. For greater assistance, organizations may refer to the table below.

|             |  |
|-------------|--|
| <b>LEAD</b> | Employment equity seeks to: <ul style="list-style-type: none"> <li>• Eliminate employment barriers.</li> <li>• Remedy the effects of past discrimination.</li> <li>• Prevent future barriers from emerging.</li> <li>• Promote access to equal employment opportunity for members of under-represented, equity-denied groups.</li> </ul> |
|-------------|--|

<sup>5</sup> This Guidance uses the terms “equal employment opportunity” and “employment equity” interchangeably. Specifically, equitable practices are the means through which equal employment opportunity is achieved.

<sup>6</sup> Organizations should be mindful that diversity is, by its very nature, an inclusive term. It refers to the multifaceted ways in which we all differ given an infinite range of variation in human attributes and characteristics. While these attributes include definitive group traits identified in human rights legislation otherwise referred to as protected traits or characteristics—diversity also includes differences on the basis of educational background, expertise, and other divergent life experiences.

|                    |   |
|--------------------|---|
|                    | <ul style="list-style-type: none"> <li>Substantively increase the distribution of equity-denied persons across industries, occupations, and in all levels of seniority.</li> </ul>  |
| <b>LIST</b>        | <p>Protected group characteristics, to which the right to employment equity may attach, generally include the following:</p> <ul style="list-style-type: none"> <li>Colour</li> <li>Race</li> <li>Ancestry</li> <li>Citizenship</li> <li>Place of origin</li> <li>Ethnic origin</li> <li>Age</li> <li>Disability</li> <li>Family status</li> <li>Marital status</li> <li>Creed</li> <li>Record of offenses</li> <li>Sex</li> <li>Gender identity</li> <li>Gender expression</li> <li>Sexual orientation</li> </ul> <p>Organizations are encouraged to consult the provincial legislation to which they are subject for clear guidance.</p>  |
| <b>ACKNOWLEDGE</b> | <p>Diverse groups of people have faced various barriers to human rights recognition, social-economic advancement, and broader civic inclusion. Acknowledging disadvantages in employment opportunity refers to these systemic circumstances or conditions.</p>  |
| <b>COMMIT</b>      | <p>Commitments integral to the achievement of employment equity generally include, but are not limited to the following:</p> <ol style="list-style-type: none"> <li>Adopt Recommendation 92 of the Truth and Reconciliation Commission of Canada's Calls to Action, to address the unique disadvantages to employment opportunity faced by Indigenous Canadians, owing to histories of colonization, state acts of economic deprivation and targeted exclusion.</li> <li>Commit to talent acquisition and retention practices that promote a diverse workforce. This includes the use of special employment programs, targeted recruitment pipelines, and mentorship programs for equity-denied groups.</li> <li>Commit to universal design in all environments, technologies, tools, policies, and processes.</li> </ol> |

### Definitions to Support Policy's Interpretation

- A "definitions' sub-provision is an integral component of any policy document. It ensures a shared understanding of key terms that are critical to the proper comprehension and correct application of a policy's terms.

- b. An organization’s EEO policy should consider developing broad, inclusive terms and definitions to maximize protections for EEO policy beneficiaries, with an emphasis on equity-denied persons or groups.
- c. Organizations should further note—human rights legislation establishes a baseline as to what is required regarding the rights of persons and the obligations of employers (including what traits or characteristics are protected from discrimination). This baseline, however, does not prevent organizations from adopting a compliance plus approach.
- d. **A compliance plus approach** asks that organizations establish greater legal protections than what is currently provided for in existing human rights legislation, by and through the employment relationship, as set out and defined in contract.<sup>7</sup>

For example, some statutory provisions may narrow or limit the definition of “family status” to only include biological relationships of a certain nature such as parent-child. This definition, of course, does not account for all relationships of care.

A more inclusive definition of “family status” would extend legal protections to “biological relationships and other relationships of care, responsibility, and commitment, where there are no blood or adoptive ties.”

This broader definition observes the rights of those meeting the narrow statutory definition of “family status,” while also creating or extending, through contract law, analogous rights inclusive of other caretaking relationships.

An additional example of a statutory term with human rights aims, but equity deficits is “pay equality” or “pay equity.” Statutory understandings of pay equality are generally specific to pay disparities between gender typed roles (male and female), to the detriment of other intersecting characteristics such as race, indigeneity and disability.

This specificity has the unintended effect of excluding from human rights concern and analysis the plight of persons possessing multiple equity-denied attributes who experience the greatest disparities in compensation. To achieve EEO objectives and address all equity deficits, organizations are, therefore, encouraged to adopt a “compliance-plus” approach to human resource policy development.

### **Application and Scope**

- a. An organization’s EEO policy should consider identifying:
  1. The governing legal standards its policy seeks to develop applicable compliance provisions for as generally set forth in provincial human rights legislation.
  2. The scope of persons to whom its policy applies and/or the scope of activities its policy seeks to regulate.

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<sup>7</sup> Contract law refers to those human resource policies which—by operation of an incorporation by reference clause or similar contractual provision—come to form part of an employment contract’s terms and conditions.

- b. Scope language is particularly important if an organization seeks to vest certain substantive rights and procedural entitlements to persons not otherwise employed by or possessing a contractual relationship with the organization in question. For example, candidates for employment.

**EEO Commitments**

- a. An organization’s EEO policy should consider identifying discrete EEO commitments. EEO commitments should be clear, actionable and quantifiable. Commitments:
  - 1. Help inform an organization’s accountability framework.
  - 2. Allow for the development of targeted strategies to accomplish stated EEO objectives.
  - 3. Facilitate the identification of relevant key performance indicators (KPIs) or quantifiable targets against which progress toward identified EEO goals may be assessed through timely, periodic audits.
  
- b. Examples of EEO commitments may include:
  - 1. A commitment to talent acquisition practices that promote substantive diverse representation of equity-denied candidates in each layer of an organization’s workforce, with an emphasis on representation in senior, executive roles.
  - 2. A commitment to partner with HR professional associations to support the development and recruitment of diverse, IDEA-trained human resource professionals.
  - 3. A commitment to humane people management policies and practices that center employee wellbeing and psycho-social safety.
  - 4. A commitment to universal design and to minimize to the greatest extent possible the need for individual accommodation.
  - 5. A commitment to providing equitable remuneration and compensation (as defined through an intersectional lens).
  - 6. A commitment to invest in employee professional development, to include increased employee role expertise, performance autonomy, and career advancement.

**Investment of Resources Necessary to Achieve EEO Commitments**

- a. To ensure accountability, organizations should consider assigning responsibility to and ownership over EEO commitments to certain bodies, departments, or personnel. Designated bodies should be properly resourced and staffed to facilitate the effective oversight and achievement of EEO commitments.<sup>8</sup> A staffing model may include the following:

|           |   |
|-----------|---|
| Office(r) | <ul style="list-style-type: none"> <li>• Responsibilities and Objectives</li> </ul> |
|-----------|---|

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<sup>8</sup> In establishing the above matrix or network so to speak of equity offices, Egale notes that this model is impractical for organizations with smaller staff sizes and limited financial resources. The 50/30 Resource Help Desk is available to assist organizations in the development of individualized, modified policies.

|                                    |  |
|------------------------------------|--|
| Employment Equity Office(r)        | <ul style="list-style-type: none"> <li>• Publish equity audits with identified amelioration strategies.</li> <li>• Collect equity-related data on HR processes for systemic analysis.</li> <li>• Address complaints of systemic discrimination.</li> </ul>   |
| Truth and Reconciliation Office(r) | <ul style="list-style-type: none"> <li>• Implement Recommendation 92 of the Truth and Reconciliation Commission’s Calls to Action.</li> <li>• Acquire and maintain the Canadian Council for Aboriginal Business’ Progressive Aboriginal Relations™ Certificate.</li> <li>• Establish relations with Indigenous organizations.</li> <li>• Develop targeted recruitment pipelines for the procurement of Indigenous talent.</li> <li>• Provide learnings on the United Nations Declaration on the Rights of Indigenous Peoples, treaties and Aboriginal rights, Aboriginal law, and Aboriginal–Crown relations.</li> <li>• Identify Indigenous businesses for priority placement on vendor procurement lists.</li> <li>• Identify Indigenous human rights efforts for the commitment of company resources (finances, volunteering of personnel, expertise, and other in-kind supports).</li> </ul> |
| Respectful Workplace Office(r)     | <ul style="list-style-type: none"> <li>• Develop and administer complaint resolution processes to assess and remedy individual allegations of discrimination or harassment.</li> <li>• Conduct workplace reviews and investigations.</li> <li>• Provide organization wide trainings on equity and inclusion topics to cultivate and maintain a harassment, discrimination, and violence free workplace.</li> </ul>   |
| Accessibility Office(r)            | <ul style="list-style-type: none"> <li>• Identify and address organizational deficits in universal design.</li> <li>• Administer accommodation procedures.</li> </ul>  |

**NOTE:**

Organizations should be mindful that the model provided above is simply that—a model. One approach amongst many. This model may prove useful to some organizations and impractical to others. In either instance, its purpose is not to mandate the establishment of certain offices or the hiring of certain personnel. Its purpose is to demonstrate that the labour that is EEO cannot be delegated to or achieved by one person. EEO must be an organization-wide learning and practice. As with reconciliation— “we are all treaty people” —so too with EEO—we must all be involved in the human rights business.

## Mandatory IDEA Competency and Learning

- a. An organization's ability to make progress towards EEO commitments is directly related to the inclusion, diversity, equity, and accessibility ("IDEA") competencies of its leaders and decision-makers ("key personnel"). This Guidance recommends that organizations:
  1. Require IDEA competency as a condition precedent to employment eligibility and retention.
  2. Require all personnel to submit to continuous IDEA training.
  3. Require key personnel to submit to specialized IDEA training specific to employees who hold leadership, decision-making, and policy titles and/or roles.
- b. By general personnel, this Guidance refers to employees with little to no decision-making authority over the direction of their workplace, in general, and the strategic direction of their organization at large.
- c. By key personnel this Guidance refers to:
  1. Employees whose roles require the exercise of responsibility and authority over others (supervisors and managers).
  2. Employees whose roles require the exercise of specific policy design and/or implementation responsibilities (Human Resources).
  3. Employees whose roles require executive oversight of an organization (President, Executive Director, Director, etc.).
- d. Though IDEA training is essential for all personnel, it is particularly critical for key personnel with leadership, decision-making, and policy functions. Here's why:
  1. Leadership: Leaders set the tone and define the culture of their organization.
  2. Decision-Making: Individuals with decision-making authority significantly influence an organization's policies, strategies, and resource allocation determinations.
  3. Policy Design: Those responsible for creating and implementing an organization's policies are uniquely positioned to embed IDEA principles into an organization's very DNA.
- e. In addition to training provided to general employees, IDEA training most relevant to employees in leadership, decision-making, and policy roles may include:
  1. **Data-Driven Decision-Making:** Training to use data and metrics to track and improve an organization's diversity and inclusion efforts.
  2. **Legal and Compliance Training:** Training to ensure in depth comprehension of laws and regulations related to equal employment opportunity.
  3. **Creating Inclusive Policies:** Training to design and implement policies that promote IDEA principles within an organization.
  4. **Conflict Resolution and Mediation:** Training to effectively resolve workplace conflicts.
  5. **Accessibility and Accommodations:** Training to design workplace environments and services that are accessible to all.

- 6. **Mentoring and Sponsorship:** Training on how to mentor, sponsor, and support employees from underrepresented groups to advance in their careers.
- f. IDEA training most relevant to general employees include trainings to cultivate a profound appreciation for diversity, a keen understanding of implicit biases, systemic disadvantages, and the historical contexts that shape these dynamics. Specifically:
  - 1. **Understanding Implicit Biases:** Training relevant to unconscious biases and strategies to counteract them.
  - 2. **Systemic Disadvantages:** Training regarding the systemic disadvantages that equity-denied groups face due to historical and structural factors.
  - 3. **Historical Context:** Training on historical contexts that inform current disparities and inequities. For instance, understanding colonization, treaties, Aboriginal rights and Aboriginal–Crown relations is crucial in countries such as Canada that exist or operate under a national truth and reconciliation framework.
  - 4. **Inclusive Language:** Training on the use of inclusive and respectful language in employee communications, both written and spoken.
- g. In conditioning employment upon IDEA competency—organizations should consider clearly defining and communicating what precisely—in terms of IDEA competency—is required or expected of employees and candidates for employment alike.
- h. In requiring or mandating employees to submit to continuous IDEA learnings—organizations should ensure the achievable nature of this mandate. This includes providing employees with the necessary resources and support, in terms of work allocation and time flexibility, to prioritize IDEA learning objectives.

#### **Executive Oversight of EEO Commitments**

- a. Organizations should consider requiring timely, reoccurring meetings, at an interval to be self-determined, amongst key personnel to discuss, amongst other concerns:
  - 1. Emerging equity issues.
  - 2. Current organizational EEO standing.
  - 3. Efficacy of current human resource practices, policies, and approaches in meeting EEO commitments.
  - 4. Strategies to improve upon current EEO deficits.

#### **EEO Compliance Assessments & Internal Equity Audits**

- a. An organization’s EEO policy should consider mandating the conduction of periodic equity audits. These audits should:
  - 1. Identify specific actions or measures an organization must take to improve upon equity deficits, if any.
  - 2. Assess the efficacy and equity impact of current human resource policies and practices.
- b. An organization’s EEO policy should further consider including a provision that allows for the nullification of any policy or practice that is found to be discriminatory in impact, design, or effect; or ineffective in accomplishing stated objectives.

### **Complaint Resolution Processes and Procedures**

- a. Lastly, organizations should consider developing grievance and/or complaint resolution procedures that allow for the filing of systemic discrimination complaints. Unlike individual complaints of harassment or discrimination, systemic complaints specifically regard organizational policies or practices that allegedly create or perpetuate discriminatory disadvantages.



## ETHICAL COLLECTION OF EQUITY DATA POLICY GUIDANCE

1. The following Guidance applies to organizational efforts to collect equity data. By equity data, this Guidance refers to data voluntarily provided by applicants for employment and/or existing employees, regarding their protected attributes. Such attributes generally include race, gender, age, disability status, sex, sexual orientation, gender identity, gender expression and other characteristics.
2. There are two primary forms of equity data.

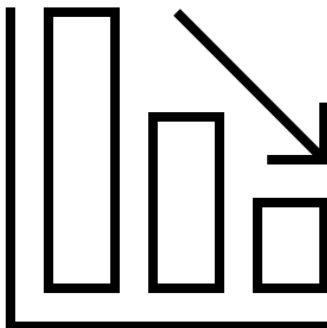
| <b>Aggregate Data</b>   | <b>Remedial Employment Program Data</b>   |
|---|---|
| Aggregate data refers to demographic information voluntarily provided by candidates during the recruitment and other human resource processes. Aggregate data is subject to strict anonymization requirements to prevent the identification of any specific individual within a data set. Its primary purpose is to identify trends as well as measure deficits in an organization’s inclusion, diversity, equity, and accessibility efforts. | Unlike aggregate data, remedial employment program data is not anonymous. It refers to demographic information voluntarily provided by and specifically associated with certain applicants. The primary purpose of remedial data is to affirmatively identify applicants, as belonging to certain designated equity-denied groups, for which special employment programs exist to advantage their hiring, promotion, and inclusion. These programs are designed to remedy systemic disparities in employment opportunity. |

3. The term “equity data” also refers to a broader range of qualitative and quantitative information that organizations collect to assess their progress towards achieving designated equal employment opportunity policy commitments.

| <b>Quantitative Data</b>   | <b>Qualitative Data</b>   |
|--|---|
| Refers to the use of numerical or statistical information to interpret employee experiences of organizational equity and inclusion. This information includes: | Refers to the use of narrative data to capture more robust, nuanced employee interpretations of their own experiences of organizational equity and inclusion: |

|   |  |
|---|--|
| <ul style="list-style-type: none"> <li>a. Demographic data on the protected characteristics of employees and/or applicants for employment.</li> <li>b. Closed-question surveys.</li> <li>c. Representation data related to the distribution of underrepresented groups at various organizational levels, such as leadership and managerial positions.</li> <li>d. Pay equity data on salary disparities to identify potential wage gaps on the basis of protected attributes such as gender, race, indigeneity and disability.</li> <li>e. Promotion data to measure the progression of employees through an organization's hierarchy based on demographic attributes to ensure the existence of equitable opportunities for advancement.</li> <li>f. Accessibility data to measure the universal design conformity of an organization's physical spaces, digital platforms, and services.</li> </ul> | <ul style="list-style-type: none"> <li>a. Surveys that gauge employee experiences, perceptions, and feelings.</li> <li>b. Focus groups and interviews with employees to gain a deeper understanding of employee experiences and challenges.</li> <li>c. Anonymous reporting systems that enable employees to report incidents of discrimination, harassment, or bias without fear of retaliation.</li> </ul> |
|---|--|

4. To advance equal employment opportunity objectives, organizations should consider systemizing the collection and analysis of equity data, as per existing provincial human rights legislation and (where applicable) privacy legislation. Equity data is critical to an organization's ability to measure the efficacy of any equal employment opportunity ("EEO") effort. This is particularly essential given that an equity effort may prove:



- Wholly effective to all protected characteristics.
- Partially effective to certain characteristics while non-impactful to others.
- Partially effective to certain characteristics while disadvantageous to others.
- Non-impactful to the inclusion or advancement of any characteristic.
- Measurably discriminatory in impact or effect to some or all characteristics.

5. In other words, data is critical to understanding the extent to which organizational efforts are helpful or harmful to achieving stated EEO objectives. Of course, this Guidance only applies

if an organization intends to act upon data collected, i.e., use it to impact decisions, and other equity initiatives.

Organizations cannot change what they do not measure. Likewise, organizations should not measure what they do not intend to change.

### I. Statement of Policy Purpose

- a. Organizations should consider articulating a clear governance framework in their statement of purpose. A statement of purpose is a crucial component of any policy document. It articulates a policy's objectives, providing a clear and concise expression of what a policy seeks to achieve. In the event of ambiguity or uncertainty, a clear statement of purpose provides readers with the interpretive guidance necessary to construe policy language in a manner that effectuates a policy's spirit or intent.
- b. To draft a clear statement of purpose, organizations should consider the following:
  1. **Lead** with a clear commitment to collect equity-related data to identify and eliminate barriers to equal employment opportunity. This includes barriers to accessibility and inclusion as existing within the workplace (data purpose).
  2. **Require** human resource ("HR") policies and practices to be regularly audited to measure organizational progress towards identified EEO policy commitments (data accountability).
  3. **Establish** rules to regulate the use, collection, and dissemination of data (data standards).
  4. **Establish** strict measures to control the reliability of data collected (data quality). This includes:
    - i. The way data is collected and stored to ensure reliability.
    - ii. The frequent and timely nature in which data is collected to ensure currency of findings.
    - iii. The utility of data collected to measure organizational progress towards identified EEO commitments.
  5. **Designate** human resource personnel to hold specific data collection, analysis, and oversight responsibilities (data stewardship).
  6. **Advise** stakeholders and data participants of the purpose for, utility of, and results of any data collection effort (data transparency).
- c. For guidance, organizations may refer to the following sample policy provision:

[Organization] commits itself to providing equal employment opportunity. All human resource policies and practices must be data driven and evidence informed to accomplish this objective. [Organization] practices found to be discriminatory in impact or effect must be promptly revised or abandoned.

All data analytic processes performed by [Organization]’s Human Resource Department must adhere to the following minimum requirements:

1. Data requested must relate to a specific equity purpose to be disclosed to data participants.
2. Data collected must be put to beneficial or otherwise acted upon.
3. Data collected must measurably improve upon organizational EEO efforts.

## **II. Definitions to Support Policy’s Interpretation**

- a. A “definitions’ sub-provision is integral to any policy document. It ensures a shared understanding of key terms that are critical to the correct application of a policy’s provisions. Organizations are encouraged to define terms essential to the comprehension of any equity data policy developed.

## **III. Application and Scope**

- a. An organization’s *Ethical Collection of Equity Data Policy* should consider identifying the governing legal standards its policy seeks to develop compliance provisions for. These standards are generally set forth in provincial human rights legislation as well as (where applicable) privacy legislation.

## **IV. Condition Precedents to the Issuance of Data Collection Requests**

- a. An organization’s *Ethical Collection of Equity Data Policy* should consider setting forth preconditions to the collection of data. Specifically, organizations should avoid “fishing expeditions” or “we’re asking just because we can” approaches to data collection. Instead, data requests should achieve an identified EEO objective. Sample language is included below.

Prior to carrying out any data collection effort, [Organization] must, at minimum, identify:

1. The type of data to be collected.
2. The specific use that data will serve as it relates to [Organization]’s EEO commitments.
3. The length of time data collected will be retained, and the confidential nature of that retention.

## **V. Intersectional Informed Approach to Data Collection and Analysis**

- a. An organization’s *Ethical Collection of Equity Data Policy* should consider adopting an intersectional approach. Intersectionality refers to the ways in which systems of inequality based on gender, race, ethnicity, sexual orientation, gender identity, disability, class and other forms of discrimination “intersect” to advantage or disadvantage individuals, as per their unique social location.

- b. Intersectional data helps organizations identify employees or applicants, with multiple, intersecting protected attributes or characteristics, who face the greatest risk of exclusion or marginalization.
- c. To support intersectional data analysis, organizations should consider adopting the following principles to govern EEO related data requests:
  - 1. Demographic data requests should measure, to the best extent possible, diversity within equity characteristics such as disability, gender identity and expression, sexual orientation, etc. This data will allow organizations to gauge the extent to which representation of all diversity characteristics is present within their workforce.

For example, organizations may have representation of employees with mental health diagnoses, but no comparable representation of employees with visual or auditory disabilities, indicating the continued existence of barriers as it regards this demographic.

- 2. Demographic data requests should be designed with flexibility in mind, allowing individuals to provide multiple identifications within equity markers. Individuals may belong to multiple identity groups simultaneously, such as having multiple disabilities, or identifying as multi-racial or multi-ethnic. The data collection process should adapt to accommodate these diverse and interconnected identities, empowering participants to authentically represent themselves.
- d. Organizations should prioritize use of both quantitative and qualitative data. While quantitative data offers statistical insights into the prevalence of specific demographics, qualitative data provides a deeper understanding of employee perspectives thus ensuring a more holistic view of an organization’s progress towards identified EEO commitments.

## VI. Rights of Data Collection Participants

- a. An organization’s *Ethical Collection of Equity Data Policy* should consider providing data participants with rights to transparency and accountability that data collected will be applied towards some specific equity effort, including the result of that effort. Sample language is provided below:

All persons to whom [Organization] submits a request for demographic data or any other type of equity-related information are entitled to, at minimum, the following disclosures.

- a. **The right to data transparency.** [Organization] must advise data participants of the specific use for which the data requested will serve.
- b. **The right to information regarding data governance.** [Organization] must inform data participants of how data provided will be stored to maintain its confidentiality and security; and how long data will be retained.

- c. **The right to data accountability and proof of tangible use.** [Organization] must advise data participants how data collected will be and/or has been put to beneficial use.

## VII. Duty to Cultivate Safe Workplace for Candid Employee and Applicant Disclosures Regarding Organizational IDEA Initiatives

- a. In requesting equity related data, organizations should be mindful that self-disclosure regarding a protected characteristic(s) may prove difficult for:
1. Participants who elect not to publicly affirm their identity, owing to societal stigma, shame, and violence.
  2. Participants with past and/or continuing experiences of systemic disadvantage owing to a protected attribute or characteristic.
- b. Rather than disclose, employees may elect to conceal attributes or characteristics that are not always immediately apparent or visible (such as disability). This includes suppressing the expression of certain characteristics (such as religion or gender identity expression). For job applicants, this may also include delaying the discovery of more visible protected attributes (such as race, color, sex or pregnancy).



### DID YOU KNOW?

During a decades long period of time known as the LGBT Purge, the federal government of Canada discriminated against members of the Canadian Armed Forces (the "CAF"), the Royal Canadian Mounted Police (the "RCMP") and employees of the Federal Public Service (the "FPS"), pursuant to various written policies.

As early as 1955, federal policies authorized the identification, investigation, sanctioning and discharge of lesbian, gay, bisexual and transgender members (actual or perceived) of the CAF, RCMP, and FPS, on the grounds that persons possessing sex and gender diverse attributes or characteristics were unsuitable for service and employment.

For more information on the Purge, please visit: <https://lgbtpurge.com>

- c. Of course, measuring the efficacy of an organization's EEO strategies requires the full and honest participation of employees most marginalized. To support the increased engagement of equity denied persons and groups, organizations should prioritize cultivating a safe work environment. This means developing relationships with employees built on mutual concern and trust.
- d. When employees trust their employers, it results in various advantages. One of those advantages being open and honest communication. Low participation rates amongst those most equity denied in data collection efforts may indicate that employees or candidates for employment:
1. Have concerns about reprisal or retaliation if honest disclosures are made.
  2. Have minimal confidence that data requested will be applied towards substantive organizational change.

- e. Low to no participation rates may also result from lack of representation. That is the perspectives of certain equity denied characteristics may not exist within an organization's workforce due to the non-employment of persons with those protected attributes.
- f. In the absence of an internal data pool, policy provisions should be adopted to allow organizations to consult with diversity organizations or other experts to receive guidance on the inclusion needs of non-represented diversity characteristics. This may help address deficits in inclusion strategies.

#### **VIII. Ethical Usage of Data for Minimally Represented Protected Characteristics**

- a. Organizations with low to no representation of specific groups, identities or characteristics should be particularly mindful of the confidentiality and anonymity rights of such participants when releasing or publishing data.
- b. This includes the adoption of protocols to protect against the indirect identification of participants through use of statistics, numbers, narratives, anecdotes, and/or descriptive terms such as "the only," or "one of few," which given low representation within an organization, can be easily linked to specific persons.
- c. Organizations should develop protocols and provisions regarding:
  - 1. How data is collected to ensure and maintain anonymity.
  - 2. How data is interpreted and contextualized when due to under-representation there is insufficient data to capture the diverse, comprehensive nature or breadth of certain experiences.
  - 3. How data can be ethically published without violating confidentiality rights.

#### **IX. Data Retention and Privacy Guidelines**

- a. An organization's *Ethical Collection of Equity Data Policy* should consider adopting additional policy language to address the following:
  - 1. The length of time demographic and other equity related information will be retained, to include data deletion and destruction measures.
  - 2. How data collected will be securely stored and protected.
  - 3. Who will have access to data and for what purpose (e.g., designated human resource personnel for the purposes of data analysis).

## PAY EQUITY AND TRANSPARENCY POLICY GUIDANCE

1. Using the “compliance-plus” approach first described in the *Equal Employment Opportunity Policy Guidance*, organizations should consider adopting a pay equity policy. This policy should go beyond general statutory understandings of pay equality to remedy pay deficits experienced across statutorily protected characteristics.
2. To present date, pay equality legislation has generally sought to remedy pay disparities specific to female and male gender typed roles, by requiring employers to address the existence of gender bias in compensation systems, for equal or similar work performed. While accounting for gender-specific disparities in compensation, pay equality legislation has generally failed to address the even *greater* pay disparities experienced by persons possessing multiple equity-denied attributes or characteristics.



3. For example, data analyzed by the British Columbia Office of the Human Rights Commissioner (“Human Rights Commissioner”) found that in 2015 racialized men earned 78 cents for every dollar earned by non-racialized men.<sup>9</sup> Racialized women, facing compound racism and sexism, earned 59 cents for every dollar earned by non-racialized men.
4. In addition to gender, race, disability, and other protected characteristics—factors such as place of residence, regional job availability, caretaking responsibilities, and access to education also contribute to pay equity deficits. These factors *further* contribute to the over-representation of equity-denied persons in precarious work arrangements. For example, 2010 national data pulled by the Human Rights Commissioner found that Indigenous Peoples were more likely to:
  - a. Work in low wage roles or occupations.
  - b. Be disparately employed in temporary or seasonal roles.
  - c. Work in occupations with heightened risk of personal injury.
  - d. Experience economic insecurity.
5. To effectively remedy existing compensation deficits, an organization’s pay equity policy must consider going beyond gender specific analysis and instead:
  - a. Address pay disparities across statutorily designated characteristics.
  - b. Adopt a compensation philosophy that supports the socio-economic mobility of all employees and candidates.

#### I. **Statement of Policy Purpose**

- a. A statement of purpose is a crucial component of any policy document. It articulates a policy's objectives, providing a clear and concise expression of what a policy seeks to achieve. In the event of ambiguity or uncertainty, a clear statement of purpose provides readers with the interpretive guidance necessary to construe policy language in a manner that effectuates a policy's spirit or intent.
- b. In developing a statement of purpose, organizations should commit to fair compensation for similar work performed, without discrimination on the basis of any protected characteristic.
- c. To attract and retain talent, an organization’s compensation philosophy should:
  1. Provide market-based competitive pay.
  2. Provide merit-based increases in pay to motivate employees to perform at the best of their competencies and abilities.
  3. Provide equivalent compensation to employees who perform similar roles, with allowable differences in pay being permitted on grounds not prohibited by law (such as cost of living adjustments or performance-based distinctions).

For reference, organizations may draw upon the sample language provided below:

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<sup>9</sup> “Pay gap types and causes,” (Vancouver: British Columbia’s Office of the Human Rights Commissioner). [https://bchumanrights.ca/wp-content/uploads/Infosheet\\_pay-gap-types-causes.pdf](https://bchumanrights.ca/wp-content/uploads/Infosheet_pay-gap-types-causes.pdf)

To attract and retain a multi-generational, diverse workforce with extensive talent and expertise, [Organization] hereby commits to the following compensation practices:

1. The provision of market-informed, competitive compensation.
2. The provision of merit-based increases in pay to reward excellence in individual performance.
3. The provision of equal pay, as subject to location specific cost-of-living adjustments and merit-based considerations such as performance.
4. The publication of [organization]’s pay schedule to employees and candidates for employment alike, as inclusive of the following information: compensation philosophy, job grade structure, base salary, and pay increase structure.

To address the specific disparities in equal pay experienced by persons of multiple, intersecting equity-denied characteristics, and to ensure pay equity across statutorily designated attributes and characteristics, [organization] further commits to the following equity practices:

1. The disaggregation of pay data by the equity markers of indigeneity, race, gender, sex, disability, and other equity characteristics, as per terms of the *Ethical Collection of Equity Data Policy*.
2. The conduction and publication of pay equity audits as per terms of the Equal Employment Opportunity Policy.
3. The reasonable award of back pay and salary or compensation adjustment where pay deficits are discovered.

This Policy must be read and interpreted in harmony with the terms of any collective agreement binding upon [Organization].

## II. Definitions to Support Policy’s Interpretation

- a. A “definitions’ sub-provision is integral to any policy document. It ensures a shared understanding of key terms that are critical to the proper comprehension and correct application of a policy’s terms. In defining terms specific to this policy, organizations may consider drawing from, adding to, or adopting the following sample “Definitions” policy provision.

**Competitive Compensation** Refers to a salary or wage that is equal to or exceeds the market standard for substantially similar jobs in the same geographical area, as dependent upon a candidate’s or employee’s experience—so long as that standard does not fall below living wage.

|                           |   |
|---------------------------|---|
| <b>Job Family</b>         | Refers to jobs of a similar nature that requires comparable training, skills, knowledge, and expertise.   |
| <b>Salary Band</b>        | Refers to a salary range established for a specific job role as determined by the value that role carries; the market value of the job role; and the job role's internal value or seniority level within an organization. |
| <b>Pay Explainability</b> | Refers to an organization's ability to clearly articulate how pay determinations are fairly and consistently made in accordance with an organization's overarching compensation philosophy.                               |
| <b>Pay Transparency</b>   | Refers to the organizational practice of disclosing pay compensation information to employees and candidates for employment.  |
| <b>Pay Equity</b>         | Refers to the principle that similarly situated employees (i.e., employees of equivalent experience, skills, and work responsibilities), performing substantially similar work receive relatively comparable pay.         |

### III. Application and Scope

- a. An organization's pay equity policy should identify the scope of persons to whom its policy applies. Application and scope language is particularly important if an organization seeks to vest certain substantive rights and procedural entitlements to individuals who do not possess a contractual relationship with the organization. For example, candidates for employment.
- b. Scope language provides policy administrators with notice that persons enumerated have specific rights with respect to organizational processes; and that observance of these rights (as created by mandate of law and/or voluntarily through policy) is compulsory. Sample "application and scope" language is included below.

This Policy applies to all current employees herein by this [Organization] retained as well as all prospective employees or candidates for employment.

## SCHEDULE 1: PAY GRADE SCHEDULES

- a. An organization's pay equity policy should consider including a pay grade structure or—in the alternative—should set forth principles that an organization's human resource personnel must apply in the development of one.
- b. A pay grade structure is a system that allows organizations to determine an employee's compensation. A pay grade structure is generally inclusive of factors such as:
  1. Job description.
  2. Job difficulty/complexity of responsibilities performed within role.
  3. Level of seniority.
  4. Employee or candidate's skill(s), as inclusive of certifications, licensures, and years of experience.

This list is not exhaustive.

- c. In adopting a pay equity policy, organizations should be mindful of *existing* compensation practices—whether formal (practiced as a matter of policy) or informal (practiced as a matter of usage or custom). To facilitate compliance with any recently enacted pay equity policy, organizations should consider requiring their human resource departments to:
  1. Take an inventory of existing job descriptions, job families, and salary bands.
  2. Develop a job grade structure consistent with the organization's amended or new compensation philosophy.

### 1. Job Descriptions

- a. Organizations seeking to provide competitive pay will likely need to conduct a market survey of the current compensation rates being offered by other employers within the region.
- b. Job descriptions contain the information necessary for an organization to compare its job positions with external survey positions. As such, organizations should consider requiring their human resource personnel to audit existing job descriptions. This audit will allow human resources to:
  - i. To identify job descriptions falling within the same cluster or family for further benchmarking and market analysis.
  - ii. To determine what constitutes competitive compensation as per job family.
  - iii. To develop a pay grade schedule that identifies all job families within an organization's hierarchy—from the highest weighted to the least weighted in terms of seniority and pay.

### 2. Salary Surveys and External Market Data

- a. As is known, the market fluctuates. Inflation changes the value of every dollar earned. What is competitive compensation today may not qualify as a living wage tomorrow. Given the volatility of today's markets, an organization's pay equity policy should consider timely reviewing the competitive nature of any previous pay grade structure.

- b. Organizations should consider establishing minimum requirements regarding how frequently pay grade structures must be reviewed. Specifically, whether these reviews should occur annually or every x number of years. Of course, conducting surveys of external market data to assign an appropriate salary band per job family is a resource intensive practice. At the same time, failing to *continuously* provide competitive compensation may undermine an organization's talent acquisition and retention objectives.

### 3. Identification of Salary Range Given Market Data

- a. Organizations should be mindful that in culling market data, benchmarking analysis may likely reveal a wide compensation range. This is because data pulled will be inclusive of organizations who pay both the least and the most, in terms of salary, as it regards any particular job family.
- b. An organization's pay equity policy should consider providing some guidance on how its human resource personnel may more narrowly define an organization's own pay grade structure. As an example, organizations may refer to or draw upon the sample language provided below:

[Organization]'s human resource personnel must assign a salary range to each job family or cluster. Salary ranges must be consistent. They must be measured to achieve the following objectives:

1. Provide flexibility to managers to assign increased pay to employees or candidates in recognition of factors such as experience, complexity of work to be performed, and labour market availability of candidates of comparable competence or expertise.
2. Account for learning curves within a position.
3. Facilitate growth, by and through increased pay, during an employee's tenure within the same role or position.
4. Provide flexibility to managers to assign performance-based increases in pay.

### 4. Establishment of Guidelines to Inform Performance Based Pay Increase

- a. Organizations should consider establishing guidelines for performance-based increases in pay. To ensure fairness and consistency, performance-based increases may—for example—be measured using a fixed dollar amount or a set percentage point increase.
- b. This, of course, is not the only model available to employers. In fact, organizations should be mindful, that at times, set rate or set percentage-based increases may prove unnecessarily restrictive. Specifically, they may frustrate rather than facilitate talent acquisition aims, particularly in instances where a high-performing employee is seeking greater compensation equal to or consistent with a competing job offer, as a condition of continued employment; and the talent possessed by that an employee is of substantive value to the organization and its operational needs.

- c. In this instance, organizations will require greater flexibility to balance market based competitive pay with internal organizational equity. As such, any guideline established by an organization pursuant to this chapter should consider setting forth clear standards while also providing some measure of flexibility.
  - d. In fact, organizations *may* consider developing provisions pursuant to which human resource personnel or persons with management authority may apply for executive approval to award an employee with a salary increase *above* fixed pay increase amounts. Organizations should consider granting such requests subject to the following restrictions:
    - 1. Performance-based pay increases cannot disrupt internal pay equity.
    - 2. Performance-based pay increases must be explainable and justifiable.
5. **Approval Requirements**
- a. Organizations should consider developing processes for the approval of pay grade structures as researched and developed by human resources.

## SCHEDULE 2:

### EQUITY & TRANSPARENCY RIGHTS OF EMPLOYEES & CANDIDATES

- a. Organizations should consider themselves wholly responsible for the observance of pay equity principles in the conduction of salary negotiations and other compensation practices. Organizations should be mindful of the following circumstances as it regards equity-denied workers in particular:
  - 1. The past and present existence of barriers to equal employment opportunity.
  - 2. The disparate presentment of equity-denied groups in precarious working conditions.
  - 3. The increased likelihood that equity-denied candidates will depreciate the value of their labour in hopes of securing a job with some measure of tenure and benefits.
  - 4. The profound disparities in pay and the historical nature in which these disparities have been normalized.
  - 5. The likelihood that equity-denied candidates and employers alike will wrongfully interpret pay history information as evidence of labour value rather than as evidence of pay discrimination.
- b. Given the above circumstances, organizations should:
  - 1. Prohibit the solicitation or use of pay history information in salary negotiations.
  - 2. Place an affirmative burden on human resource personnel to ensure an equity affirming salary negotiation process.
- c. To facilitate such a process, candidates for employment must be provided with the salary range of the position for which recruitment is sought, whether it's been mandated by law or not. This includes the compensation philosophy relied upon by the organization to determine where within any salary range a candidate falls. Pay transparency allows candidates to provide employers with the information necessary to ensure equitable compensation. This means:
  - 1. Candidates cannot be paid **below or above** the compensation rates provided to internal candidates of similar experience and/or qualifications performing similar work

(with pay differences being permissible if related to cost-of-living or performance/merit-based adjustments).

2. If a candidate asks for a salary **lower or higher** than the amount permitted given internal compensation rates, organizations should advise candidates of the same and agree upon a salary most consistent with internal equity.

### SCHEDULE 3:

#### PAY EQUITY ASSESSMENT THROUGHOUT COURSE OF EMPLOYMENT

- a. Organizations should consider requiring human resource personnel and management to continuously review the equitable nature of an employee’s compensation. Such reviews may occur during each meeting convened to administer an employee’s performance review and professional development plan. These meetings:
  1. Serve as the medium through which data specific to pay equity may be collected.
  2. Facilitate the advancement and skills development of employees.
  3. Allow for the timely adjustment of an employee’s salary to account for performance-based increases.
  4. Allow for the timely promotion of an employee to a role of greater responsibility (and to greater compensation) as consistent with an employee’s increased skillset and dexterity.
- b. Information collected during each meeting convened to administer an employee’s professional development plan should include the following:

| Time of Hire   | Time of Review/Evaluation  |
|--|--|
| <ul style="list-style-type: none"> <li>• Employee demographic information.</li> <li>• Employee job title at time of hire.</li> <li>• Identified pay range for job title as established in job grade structure and published by human resource personnel during recruitment.</li> <li>• Compensation or salary amount awarded to employee.</li> <li>• Grounds supporting identified compensation amount.</li> <li>• Compensation provided to employees similarly classified at the time of candidate’s hire.</li> </ul> | <ul style="list-style-type: none"> <li>• Any revisions to employee’s demographic information.</li> <li>• Employee’s current title and salary.</li> <li>• Grounds supporting identified compensation amount.</li> <li>• Compensation provided to employees similarly situated.</li> <li>• Projects assigned to employee during review period.               <ol style="list-style-type: none"> <li>1. Employee’s contribution to project (lead, collaborator, support.)</li> <li>2. Quantifiable assessment of quality and impact of completed work.</li> </ol> </li> <li>• Grounds supporting pay increase or pay maintenance.</li> <li>• Grounds for assessment or non-assessment for promotion/advancement.</li> </ul> |

## SCHEDULE 4: PAY EQUITY AUDITS

- a. Organizations should consider mandating the conduction of annual pay equity audits, as per terms of an organization's *Equal Employment Opportunity Policy* and *Ethical Collection of Equity Data Policy*.

## POLICY GUIDANCE TO PROTECT AGAINST PRECARIOUS EMPLOYMENT

Organizations should consider developing policies and practices to protect against precarious, unreliable employment. Owing to arbitrary barriers which restrict labour market access to positions characterized by economic stability and upward mobility—marginalized workers disproportionately rely on precarious employment arrangements.

Labour arrangements indicative or suggestive of precarious employment tend to feature any combination of the following characteristics:

- Lack of leave entitlements, flexible work arrangements, healthcare, and other benefits.
- Lack of union coverage.
- Lack of job tenure or security.
- Lack of hours of work necessary to earn a living wage.
- Lack of clarity regarding employer/employee relationship.
- Lack of compensation necessary to secure safe, affordable housing and other necessities.



Equal employment opportunity cannot be achieved unless and until organizations actively confront the issue that is precarious employment.

### I. Statement of Policy Purpose

- a. A statement of purpose is a crucial component of any policy document. It articulates a policy's objectives, providing a clear and concise expression of what a policy seeks to achieve. In the event of ambiguity or uncertainty, a clear statement of purpose provides readers with the interpretive guidance necessary to construe policy language in a manner that effectuates a policy's spirit or intent.
- b. In setting forth a statement of purpose, organizations should consider the following:
  1. Affirming their duty to identify and remove barriers to equal employment opportunity.
  2. Recognizing precarious employment as a significant barrier to the socio-economic inclusion and advancement of equity-denied persons and groups.
  3. Prioritizing the staffing of high security jobs, with corresponding competitive wages.

### II. Definitions to Support Policy's Interpretation

- a. A "definitions" sub-provision is integral to any policy document. It ensures a shared understanding of key terms that are critical to the proper comprehension and correct application of a policy's terms. In defining terms specific to this policy, organizations may consider drawing from, adding to, or adopting the following sample "Definitions" policy provision.

**Competitive Wage** A wage that is calculated based on the market rate for any identified position as dependent upon a candidate's or employee's experience, skill level, and location. *Except that any compensation range identified must, at minimum, meet living wage requirements.*

**High Security Job** Employment arrangements with the following features: regulatory coverage, benefits, tenure, and with the financial compensation necessary to at minimum meet living wage requirements and facilitate freedom from poverty.

**Living Wage** A wage that is necessary to support the minimum financial needs of a household, to include discretionary expenses.

**Minimum Wage** The lowest wage permitted by law.

### III. Principles Defining Organizational Commitment to Staffing High Security Jobs

- a. To protect against precarious employment—organizations should consider adopting principles *or* guidelines. These principles should *inform* organizational hiring and procurement processes (i.e., use of independent contractors), without mandating a specific result.
- b. Equity requires flexibility in organizational responses to account for individualized needs and circumstances. An approach which mandates a specific result may prove unfeasible given the legitimate business needs of employers and may further prove detrimental given the equity considerations of candidates, employees, or independent contractors.
- c. Organizations may refer to the sample policy language provided below for further clarity or guidance:

[Organization] commits to the following recruitment and procurement principles:

1. Prioritizing permanent employment.
2. Providing transparent information regarding contract length and duration.
3. Limiting [Organization]'s use of temporary, seasonal, and casual employment to instances of genuine business necessity.
4. Establishing clear criteria for the hiring of temporary employees or contractors.
5. Establishing defined limits on the duration of temporary contracts after which time employees or contractors who have consistently contributed to [Organization] must be considered for permanent contracts.
6. Extending benefits to employees of all statuses, be they full-time or part-time.
7. Providing benefits upon hire.
8. Providing fair, competitive compensation, of an amount and in a manner that, at minimum, sustains employees' and contractors' living wage needs.

Except that none of the principles established above should be interpreted or applied to restrict any employment agreement or procurement arrangement that **benefits, enriches**, and is **inclusive** of the particularized equity needs of any employee or independent contractor.

## SUPPLIER DIVERSITY POLICY GUIDANCE

1. An organization's commitment to inclusion, diversity, equity, and accessibility (“IDEA”) should be woven into the very fabric of its operations, extending beyond the boardroom to encompass critical areas such as logistics, procurement, and supply chain management. This holistic approach to IDEA integration is vital for fostering a more equitable and sustainable business landscape.
2. Supplier diversity policies provide a unique opportunity for organizations to champion the economic development of small to medium-sized enterprises (“SMEs”) and sole proprietorships, which are majority owned or operated by persons equity-denied. By actively engaging with such suppliers, organizations may help level the playing field and drive positive change in the business ecosystem.
3. Supplier diversity policies also help organizations identify and align themselves with companies who conduct their business ethically, in harmony with well-established environmental, social, and governance (ESG) principles. This includes:
  - a. Suppliers who prioritize sustainable practices to reduce their carbon footprint, minimize waste, and promote eco-friendly products and processes.
  - b. Suppliers who uphold Indigenous rights to self-determination, land, and environmental stewardship.
  - c. Suppliers who commit to fair labor practices, equal opportunity, and safe working conditions for their own employees.
  - d. Suppliers who support the socio-economic development of marginalized communities in regions where they operate. This support can include job creation, skills development, and community engagement initiatives.
4. Supplier diversity policies create a ripple effect, extending an organization's commitment to IDEA principles into the broader business landscape.

### **I. Statement of Policy Purpose**

- a. A statement of purpose is a crucial component of any policy document. It articulates a policy's objectives, providing a clear and concise expression of what a policy seeks to achieve. In the event of ambiguity or uncertainty, a clear statement of purpose

provides readers with the interpretive guidance necessary to construe policy language in a manner that effectuates a policy's spirit or intent.

- b. In setting forth a statement of purpose, organizations should consider committing to the socio-economic development of equity-denied communities by:
  - i. Prioritizing the procurement of a diverse supply chain.
  - ii. Requiring vendors, suppliers, and contractors to similarly commit to ESG and IDEA diversity driven procurement processes.

## II. Definitions to Support Policy's Interpretation

- a. A "definitions" sub-provision is integral to any policy document. It ensures a shared understanding of key terms that are critical to the proper comprehension and correct application of a policy's terms. In defining terms specific to this policy, organizations may consider drawing from, adding to, or adopting the following sample "Definitions" policy provision.

### **Diverse Supplier**

Refers to businesses, contractors, vendors, or consultants that provide materials, goods, and/or services that are 51% owned, managed, or controlled by equity-denied persons or groups; and/or certified by a nationally or regionally recognized body. To include, but not limited to certifications such as:

- Canadian Aboriginal and Minority Supplier Council Certificate
- Woman Business Enterprise (WBE) Certificate
- LGBT Supplier Diversity Certificate (as offered by the Canadian Gay & Lesbian Chamber of Commerce)
- Inclusive Workplace and Supply Council of Canada Certificate (as specific to firms owned by veterans or persons with disabilities)
- 

## III. Principles Defining Supplier Diversity Policy

- a. Organizations should consider adopting inclusive principles or guidelines to *inform* supply chain management and procurement processes. Sample language is provided below:

To attract and retain a diverse pool of qualified suppliers, all [Company] procurement practices must be informed by the following principles:

- a. Procurement processes must preference, to the point of exclusivity, suppliers whose operations and practices align with ESG and IDEA values.
- b. To promote greater fairness and inclusion:
  - Procurement processes must prioritize commercial contracts with diverse suppliers—that is businesses operated by persons or communities' most equity denied.
  - Procurement contracts must include language requiring suppliers to similar preference the hiring of diverse subcontractors.

- c. Procurement policies and practices must promote the fair, transparent and competitive compensation of all suppliers.

## **Part II**

### **Accessibility Policies**

## FLEXIBLE WORK ARRANGEMENTS POLICY GUIDANCE

1. Flexible work arrangements allow employees to alter, on a temporary or permanent basis, their work schedule; the number of hours worked; the location where work is performed; and, to the extent necessary, the ability to take leave from work to address personal responsibilities.<sup>10</sup>
2. In today's labour market, flexible work arrangements ("FWA") are an essential condition precedent to the attraction and retention of top talent. In fact, according to studies conducted by the Government of Canada, when considering a job offer, candidates are more likely to prioritize flexibility over benefits such as high compensation and opportunities for career progression.<sup>11</sup>
3. Flexible work is an equity and business imperative. Organizational flexibility regarding how, when, and where work is performed supports increased employee work-life balance and reduced employee stress. Improved employee well-being, in turn, drives organizational success through increased employee engagement, productivity, agility and innovation within the workplace.
4. Flexible work arrangements also allow organizations to benefit from previously untapped talent pools. It provides organizations with the geographical breadth necessary to identify specialized skills and expertise not available in local labour markets due to:
  - a. The rarity, complex or niche nature of competencies or skills being sought; or
  - b. The exclusion of talent identifiable largely by statutorily protected characteristics such as caregivers and persons with disabilities.
5. All in all, flexible work has been identified by employers and employees alike as facilitating:

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<sup>10</sup> "Flexible Work Arrangements: What Was Heard," (Ottawa: Employment Social Development Canada, 2016). <https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/labour-standards/reports/what-we-heard-flexible-work-arrangements.html>

<sup>11</sup> Ibid.

- a. Reduced employee absenteeism and “presenteeism” at work (i.e., decreased engagement and productivity in the performance of work duties).
- b. Increased employee health and professional satisfaction.
- c. More effective recruitment and retention.
- d. More diverse, inclusive, engaged, and healthy workplaces.
- e. Increased labour market participation from equity-denied talent.
- f. Greater efficiency and innovation in job role performance.

### **Statement of Policy Purpose**

- a. A statement of purpose is a crucial component of any policy document. It articulates a policy's objectives, providing a clear and concise expression of what a policy seeks to achieve. In the event of ambiguity or uncertainty, a clear statement of purpose provides readers with the interpretive guidance necessary to construe policy language in a manner that effectuates a policy's spirit or intent.
- b. In setting forth a policy brief or statement of purpose specific to flexible work, organizations should consider identifying the equity as well as talent attraction and retention benefits of such arrangements.
- c. To be particularly effective, an organization's statement of purpose should aim to educate employees on their right to request and co-develop an FWA agreement without fear of reprisal concerning career progression and/or advancement.
- d. An effectively written FWA policy allows for flexibility in how work is performed and, to the extent available, when and where work is performed. Amongst other benefits, such policies allow employees to:
  - 1. Improve upon personal health and well-being.
  - 2. Realize caretaking and other community responsibilities.
  - 3. Engage in professional development and learning.
- e. While facilitating greater employee work-life balance, an effectively implemented FWA policy also contributes to organizational success by:
  - 1. Increasing workforce satisfaction, productivity, and innovation.
  - 2. Improving employee health and safety.
  - 3. Decreasing employee absenteeism and presenteeism.
  - 4. Improving candidate attraction and employee retention rates.

### **Flexible Work Arrangements**

- a. Employers should consider developing FWA arrangements that address the barriers faced by employees to equitable workplace participation. A FWA must be created in harmony with the terms of any collective agreement. When an FWA need stems from or relates to an employee's right to inclusion on the basis of a protected characteristic—then the FWA request is no longer a question of organizational discretion, but a matter of fundamental human rights. For further guidance on this point, organizations are encouraged to review the *Accommodations Policy Guidance*.
- b. FWAs can generally be divided into two categories:

| <b>Flexible Scheduling Arrangements</b>  | <b>Flexible Location Arrangements</b>        |
|--|--|
| Provides modified work times, reduced work hours, compressed work weeks, or results-only measures of employee performance or productivity. | Provides remote or hybrid work arrangements. |

c. Flexible scheduling arrangements include, but are not limited to the following:

|                         |  |
|-------------------------|--|
| <b>Modified FWA</b>     | Refers to an arrangement that modifies the start and end time of an employee’s workday without altering the total number of hours worked during the work week or work cycle.   |
| <b>Compressed FWA</b>   | Refers to an arrangement that compresses the number of days worked during the work week by lengthening or extending the number of hours worked per day.  |
| <b>Reduced FWA</b>      | Refers to an arrangement that reduces the standard number of hours worked by an employee during the work week or work cycle.   |
| <b>Results Only FWA</b> | Refers to an arrangement that does not require work to be performed during a specific time. Employee productivity is evaluated solely based on the quality and timely submission of work assigned. These arrangements are best suited for job roles that require minimal support or guidance as well as minimal intercollegiate collaboration or public interfacing to achieve project deliverables. |

- d. Flexible location arrangements are helpful in addressing social barriers to equal employment opportunity. These barriers include, but not limited to the following:
1. Access to reliable transportation.
  2. Access to affordable housing within commutable distance of place of employment.
  3. Access to childcare, caretaking, and other related kinship support.
  4. Access to economic opportunity for Indigenous persons living within remote or rural First Nations communities without necessitating—as a condition of employment—relocation therefrom.
  5. Access to economic opportunity for all other persons residing in rural, remote, or other job depressed areas.
- e. Flexible location arrangements also facilitate the greater inclusion and consideration of persons with disabilities in today’s labour market.
1. Persons with disabilities often face barriers related to transportation and physical access to workspaces. Inaccessible design in the construction of public and private buildings, walkways, thoroughfares, and public transportation renders navigation of such spaces physically demanding, demeaning, time-consuming, costly, strenuous and/or otherwise unfeasible.



2. Flexible location arrangements such as remote work:
  - i. Eliminate or reduce the need for commuting, to include associated personal and financial costs.
  - ii. Allow persons with disabilities to work in a manner consistent with human dignity, in an environment tailored to meet their specific needs.
  - iii. Increases employment opportunity to roles previously unavailable due to inaccessible in-office requirements.
3. Flexible location arrangements also support the labour market participation of workers with intermittent or chronic health conditions. These arrangements vest employees with the flexibility necessary to manage health conditions effectively in a controlled environment while applying talents towards the achievement of organizational goals.

### **Flexible Work Arrangements Approval**

- a. When organizations evaluate a request for a Flexible Work Arrangement (FWA), they should take into account the following factors:
  1. The operational requirements of the employee's department.
  2. The personal and professional needs of the requesting employee.
  3. The potential impact of the FWA on the ability of co-workers to fulfill their job responsibilities.
  4. Any health and safety concerns associated with the request.
  5. The proposed duration of the FWA.
- b. Organizations should engage in a collaborative process with employees who submit FWA requests, working closely with human resources personnel to thoughtfully assess, plan, and approve these requests. Furthermore, when considering flexible work arrangements, it's essential to factor in all aspects of the employee's workday, which includes:

|                          |   |
|--------------------------|---|
| <b>Worksite</b>          | Employees must identify their primary work location or worksite. This designation should not prevent an employee from working at an alternative work site, so long as that worksite continues to meet the safety and security needs identified by the organization. |
| <b>Work Schedule</b>     | An employee's work schedule, as inclusive of their designated time zone.  |
| <b>Health and Safety</b> | Any related health and safety responsibilities, as well as issues of employer liability tied to remote work.  |
| <b>Technology</b>        | An inventory of equipment and devices provided to the employee to perform remote work responsibilities.   |

- c. Following approval, organizations may wish to conduct a trial period during which time:
  1. The approved FWA will be monitored for its effect on operations, if any.

2. The employee's performance will be monitored for compliance with FWA terms.
3. The approved FWA may be maintained, modified or revoked in response to the above points.

**Flexible Work Arrangements Monitoring and Reassessment**

- a. Organizations may wish to consider adopting policy provisions that account for the modification or withdrawal of a Flexible Work Arrangement (FWA). As employee needs and employer practices change over time, so may the terms of an FWA. Just cause for reassessment of an FWA may include:
  1. If an employee's needs, circumstances, position or title changes.
  2. If an employee's performance proves deficient.
  3. If changes occur within an employee's department that render a previously agreed upon FWA unfeasible (such as staffing restraints).
- b. Organizations should condition the amendment or withdrawal of a previously agreed upon FWA upon proof of the following:
  1. The provision of advance notice to the impacted employee.
  2. The conduction of a due diligence review to ensure that no undue hardship will result to the impacted employee.
  3. The verification that the FWA has not ripened to or is not otherwise associated with an accommodation need, to which strict compliance, under human rights legislation, is due.
  4. The inclusion of the impacted employee in defining the terms by which the FWA will be modified or withdrawn.

**Responsibilities**

- a. Organizations may wish to consider adopting policy provisions that account for the roles and responsibilities of human resource officers, management, and employees with respect to the implementation of an FWA. A sample policy provision is provided for reference below:

|                      | <b>Responsibilities and Objectives</b>  |
|----------------------|---|
| <b>HR Officer(s)</b> | a) Ensure FWAs are designed collaboratively and equitably with IDEA principles at the center.<br>b) Address employee needs to the best of [Organization]'s ability.<br>c) Ensure FWAs do not violate ancillary organizational policies and provisions.<br>d) Consider FWAs against any relevant Collective Agreement provisions.<br>e) Advise employees of any potential impacts to employee benefits, if applicable.<br>f) Consider the operational needs of [Organization]. |
| <b>Manager(s)</b>    | a) Ensure FWAs are designed collaboratively and equitably with IDEA principles at the center.   |

|                    |   |
|--------------------|---|
|                    | <ul style="list-style-type: none"> <li>b) Foster a culture that supports employee work-life balance and greater wellbeing.</li> <li>c) Monitor employee performance, FWA compliance, and provide support and guidance during FWA trial period and beyond.</li> <li>d) Monitor effect of FWAs on office operations.</li> </ul> |
| <b>Employee(s)</b> | <ul style="list-style-type: none"> <li>e) Timely request and codevelop in FWA in partnership with management and human resource personnel.</li> <li>f) Comply with any agreed upon FWA's terms.</li> </ul>  |

## ACCESSIBILITY & ACCOMMODATIONS POLICY GUIDANCE

1. Organizations should consider developing their accommodation policy through the lens of universal design. Universal design is a “natural elaboration of the notion of equality, outside the law, in the field of architecture and planning.” *Brown v. National Capital Commission and Public Works and Government Services Canada*, 2006 CHRT 26 (CanLII), at para 198. It is an approach to designing buildings, physical environments, objects, and spaces in a manner that ensures accessibility to the greatest number of people as possible.
2. Given the infinite ways in which human beings differ, it is impossible for any system to account for the unique needs of all. Accommodation processes will always be required. An accommodation need, however, should alert organizations to the presence of previously unaccounted for barrier(s).
3. Without a universal design framework, accommodation policies may perpetuate rather than remedy discrimination. This is because the accommodation process requires individuals to submit to proof requirements to gain access to basic environments, goods, services, programs and/or benefits. Person-specific modifications provided as a result of these processes do not alter the inherently exclusionary design of the environment itself. In other words, while accommodations may sufficiently address barriers on an individualized basis, they do not systemically remove barriers in a way that provides greater access to all.
4. It is a fundamental human rights principle that systems be designed for the inclusion and use of all individuals. As has been observed by federal courts,

“Employers and others governed by human rights legislation are . . . required . . . to accommodate the characteristics of affected groups within their standards, rather than maintaining discriminatory standards supplemented by accommodation for those who cannot meet them.”

*British Columbia (Superintendent of Motor Vehicles) v. British Columbia (Council of Human Rights)*, 1999 CanLII 646 (SCC), [1999] 3 S.C.R. 868 at para. 19 (“Grismer”).

“Accommodation does not go to the heart of the equality question, to the goal of transformation, to an examination of the way institutions and relations must be changed in order to make them available, accessible, meaningful and rewarding for the many diverse groups of which our society is composed. Accommodation seems to mean that we do not change procedures or services, we simply “accommodate” those who do not quite fit. We make some concessions to those who are “different”, rather than abandoning the idea of “normal” and working for genuine inclusiveness.”

*British Columbia (Public Service Employee Relations Commission v. BCGSEU)*, 1999 CanLII 652 (SCC), [1999] 3 S.C.R. 3 (“Meiorin”).

5. Organizations are encouraged to consult their governing human rights legislation and (where applicable) accessibility legislation, such as the Accessibility for Ontarians with Disabilities Act (AODA), to assess the extent to which universal design is the controlling accessibility standard. If not expressly required by law, organizations are encouraged to adopt the compliance plus approach, as first articulated in the *Equal Employment Opportunity Policy Guidance*. This approach asks that organizations establish greater legal protections through the employment relationship, as set out and defined in contract.

#### **I. Policy Statement of Purpose**

- a. A statement of purpose is a crucial component of any policy document. It articulates a policy's objectives, providing a clear and concise expression of what a policy seeks to achieve. In the event of ambiguity or uncertainty, a clear statement of purpose provides readers with the interpretive guidance necessary to construe policy language in a manner that effectuates a policy's spirit or intent.
- b. In developing a policy brief or statement of purpose, organizations should consider committing to the following:
  1. The identification and removal of all barriers to equal access.
  2. The universal design of all environments.
  3. The prompt provision and just administration of all accommodation processes that center the rights of all persons to dignity, autonomy, and self-determination.

Organizations may refer to the sample language provided below.

[Organization]'s environments, operations, policies, and practices must be universally designed to ensure the benefits and privileges of employment are available to persons of all abilities, identities, and characteristics.

[Organization] adopts, as fully set forth herein, the voices and lived experiences of equity-denied persons who have observed as follows:

- a. That being mandated to submit to accommodation processes and proof requirements to access environments made available –without barriers to persons of dominant characteristics—is denigrating and dehumanizing.
- b. That requiring individualized responses to structural design deficits perpetuates discrimination.

[Organization] hereby mandates its Accessibility Office(r) to:

1. Continuously review [Organization] policies, processes, and environments to ensure inclusive design thereby minimizing the need for accommodation.
2. Direct and implement simple, fair, kind, dignifying accommodation processes grounded in principles of self-determination and inclusion.

## **II. Application and Scope**

- a. An organization's accommodation policy should further consider identifying the scope of persons to whom its policy applies, and the scope of characteristics to which the duty to accommodate attaches.
- b. Application and scope language is particularly important if an organization seeks to vest certain substantive rights and procedural entitlements to persons not otherwise employed by or possessing a contractual relationship with the organization in question. In this instance, candidates for employment or volunteers. Sample language is provided below.

To address present and existing barriers to equal employment opportunity, [Organization] commits itself to providing timely, reasonable, appropriate, and effective accommodations to all qualified employees or applicants for employment. For purposes of this policy, accommodation requests may be raised pursuant to any statutorily enumerated ground.

## **III. Definitions to Support Policy's Interpretation**

- a. A "definitions' sub-provision is integral to any policy document. It ensures a shared understanding of key terms that are critical to the proper comprehension and correct application of a policy's terms. In defining terms specific to this policy, organizations may consider drawing from, adding to, or adopting the following sample "Definitions" policy provision.

**Barriers** Refers to anything that hinders the full and equal participation of persons in the terms, conditions, benefits, and privileges of employment. Barriers can be caused by environments, attitudes, practices, policies, information, communications, or technologies. Barriers may be amplified or heightened by intersecting forms of discrimination.

**Duty to Inquire** Refers to an employer's duty to inquire into the possible relationship between an employee's protected characteristic(s) and an employee's performance before making an adverse employment decision. This duty is triggered or implicated when an employer is aware or reasonably ought to be aware of a relationship between the two.

**Environment** Refers to buildings, objects, as well as physical or virtual spaces.

**Proven Need** Refers to those accessibility needs that are statistically indicated as presenting, with relative frequency, within a population.

#### **IV. Accessibility Rights of Employees and Candidates to Barrier Free Environments**

- a. To reflect a universal design approach to accommodations, organizations should adopt policy language that reiterates the right of employees and candidates to accommodations *in the interim* of barrier elimination. Sample language is provided below:

Employees and candidates for employment:

1. Must be informed of their right to an accommodation as per relevant provincial legislation, as inclusive of grievance processes in the event of a violation thereof.
2. Must be provided with information regarding the accommodation process—as inclusive of personnel and/or offices responsible for its administration.
3. Must be treated with dignity and respect in an inclusive, barrier-free environment.
4. Must be provided with timely, effective, and appropriate accommodations, to the point of undue hardship, when identified barriers cannot be promptly removed or eliminated.
5. Must be provided with a reasonable plan pursuant to which [Company] will eliminate the identified barrier and thereby nullify the accommodation need. Plans for removing barriers should:
  - a. Set specific, measurable timelines for the achievement of the barrier elimination goal.
  - b. Allocate adequate resources towards meeting the goal.

- c. Ensure accountability and responsibility for meeting the goal through the implementation of timely progress reviews.

## **V. Continuous Review of Environments to Ensure Adaptation of Universal Design Principles**

- a. Organizations are encouraged to adopt policy language which would require work environments to be continuously reviewed for adaptability to universal design principles. This approach, of course, will not eliminate the need for individual accommodations. It should, however, reduce the extent to which such requests are made necessary. Sample language is provided below.

The Accessibility Office(r) is hereby mandated to conduct reviews of the following environments to assess for compliance with universal design principles:

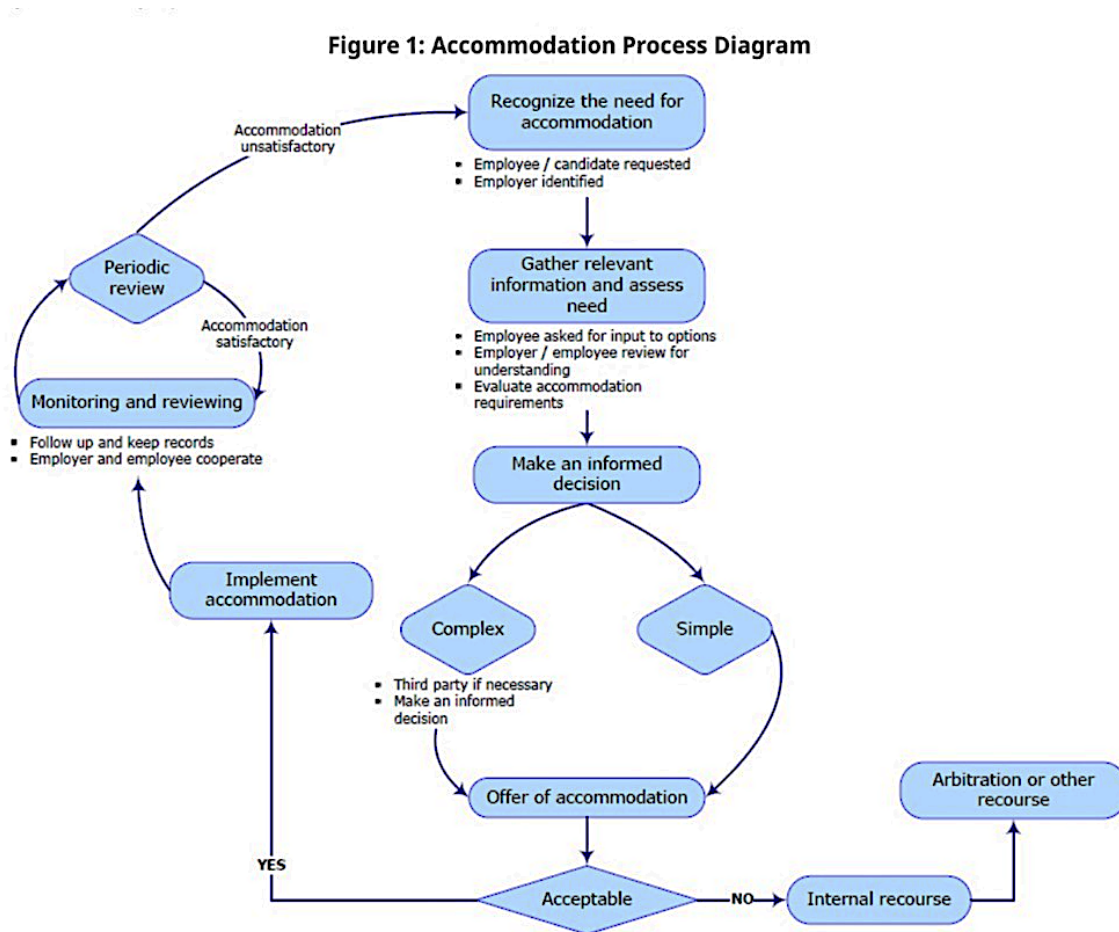
1. All work environments, including the employee workstation as well as the entire work facility or worksite.
2. All workplace technologies and tools, including computer and communication technologies, controls, and equipment.
3. All workplace policies and practices, to include policies specific to recruitment, selection, compensation, training, promotion, and termination.

Where universal design has yet to be achieved, [Organization] commits itself to providing timely and effective accommodations as an interim measure, with the most effective accommodation being the removal of all identified barriers.

## **VI. Duty To Provide Reasonable, Effective Accommodations**

- a. An organization's accommodation policy should consider specifically identifying and defining what precisely the duty to accommodate requires. Generally, this duty refers to an employer's legal obligation to nullify, modify, change or adjust rules, policies, practices and behaviors that discriminate against persons based on any protected group characteristic.
- b. Organizations should consult the provincial accessibility legislation to which they are subject to identify when the duty to accommodate as well as duty to inquire as to an accommodation need is triggered. It may not be necessary for an employee to expressly use the term "accommodation." This is particularly apt if an accommodation need is apparent or if the employer is made aware of facts indicative of such a need.

- c. Additionally, Organizations should outline each step involved in their accommodation process. An example of an accommodation process, as observed by the Government of Canada, is included for reference below:<sup>12</sup>



## VII. Principles Determining the Reasonableness and Effectiveness of Any Accommodation

- a. Organizations should adopt clear criteria pursuant to which all accommodation requests must be assessed, as set forth in provincial accessibility and human rights legislation. Sample language is provided below:

To constitute a reasonable accommodation, an accommodation, to include all processes undertaken in the identification thereof, must:

1. Respect an individual's right to human dignity.

<sup>12</sup> "Accommodation," (Government of Canada, 2011). <https://www.canada.ca/en/government/publicservice/wellness-inclusion-diversity-public-service/health-wellness-public-servants/disability-management/accommodation.html>



2. Value an individual's right to self-determination and autonomy. This includes the right to not be infantilized or treated in a paternalistic way or manner.
3. Effectively meet the specific, individualized needs of the requesting individual.
4. Be agreed upon through a collaborative process.

#### **VIII. Undue Hardship**

- a. Reasonable accommodations must be provided to qualified individuals to the point of undue hardship. Undue hardship refers to an accommodation need or request that would fundamentally alter an employer's operations or the nature of the role being performed by the employee.
- b. Generally, employers bear the evidentiary burden of proving undue hardship. The evidence required to prove undue hardship must be objective and, in the case of cost, quantifiable. Undue hardship is generally a difficult legal standard to meet. It must be demonstrated through objective evidence or scientific data that significant difficulty or expense would result to the employer, of such a nature as would disrupt an employer's operations and/or finances.
- c. Provincial legislation must be consulted to determine what factors an employer is legally permitted to consider in determining whether an accommodation request constitutes an "undue hardship." As such, in defining "undue hardship," organizations should consider adopting a policy provision specific to those grounds upon which accommodation requests cannot be denied.
- d. If evidence establishes a particular accommodation request to constitute an undue hardship, then employers must provide the next most appropriate accommodation, given current organizational capacity. Organizations should further consider adopting the universal design framework, which governs this Guidance; and developing a reasonable plan pursuant to which the barrier necessitating the accommodation need will be eliminated.

#### **IX. Duties and Responsibilities of Persons Under Accommodation Processes**

- a. Organizations should consider delineating the duties and responsibilities of all relevant persons owed towards the administration of any accommodation policy. Sample language is provided for reference below:

**Supervisors** Personnel with supervisory authority have a duty to:

2. To create a climate of trust and safety necessary for employees to disclose accessibility needs.
3. To inquire as to an individual's accommodation need, when such need is apparent or when facts would suggest eligibility for accessibility supports, under controlling provincial human rights legislation.
4. To initiate accommodation processes.
5. To participate in such processes in a manner that respects an employee's right to dignity, privacy, confidentiality, and autonomy.

- Human Resources**
- d. Human resource personnel charged with the administration of this Policy have a duty to:
  - e. To treat all persons involved in accommodation processes with dignity.
  - f. To ensure the administration of simple, barrier-free, minimally burdensome, and prompt accommodation processes.

**Employees/ Applicants** Employees or applicants seeking accommodation under this Policy have a duty to timely engage and participate in all accommodation processes.

#### **X. Data Collection During Accommodation Process**

- a. Organizations should consider adopting policy provisions specific to the protection of information gathered and collected during any accommodation process. Personal information required for accommodation should be limited to only what is legally necessary and should be shared with authorized personnel only.
- b. Organizations should consult their controlling provincial legislation to specifically identify what information employers are legally permitted to ask of persons seeking an accommodation; who may learn of or receive this information; and how such confidential information must be stored.

#### **XI. Systemic Data Collection and Analysis to Improve Upon Universal Design Deficits**

- a. Organizations should further consider collecting voluntary data for systems analysis and organizational change purposes. The following sample policy language is provided for reference only.

[Organization] must maintain aggregate data on accommodation requests to examine:

- 1. The frequency or prevalence in which any one accommodation request is made.
- 2. The effective nature and timeliness of accommodations provided (if any).

Data collection efforts should include voluntary, qualitative informational responses from individuals regarding:

- 1. Whether the accommodation process was accessible, meaning easy to navigate and understand.
- 2. Whether the accommodation process was simple and minimally burdensome.
- 3. Whether the accommodation process was made difficult by barriers such as:
  - a. Lengthy or complicated paperwork.
  - b. Arbitrary and inflexible proof demands or requirements.
  - c. Complex or confusing application procedures.
- 4. Whether the accommodation process was timely.
- 5. Whether the accommodation provided was effective.

6. Whether the individual requestor was treated in accordance with her, his or their right to human dignity during and throughout the accommodation process.

To encourage sincere feedback, data must be collected in an anonymous manner.

## INCLUSIVE WORKPLACE POLICY GUIDANCE

1. To attract *and* retain diverse talent—organizations must consider the fundamental nature of the employee experience they provide; and the extent to which this experience supports the inclusion—that is the safe, authentic self-expression and collaborative engagement of *all* employees. By fostering a positive work culture, organizations achieve several benefits, including but not limited to increased productivity, engagement, innovation, and job satisfaction.<sup>13</sup>
2. To achieve these benefits, this Guidance advocates a human-first approach to both organizational culture and human resource management. A human-first approach moves away from command-and-control relationships towards a partnership model of human resource management. It centers:
  - a. The right of employees to be respected; to be treated as fully autonomous, capable beings with talents and needs, deserving of recognition and support.
  - b. The right of employees not to be ordered about, denigrated, or demeaned.
  - c. The right of employees not to be or treated as mere tools of productivity, but as human beings, who belong to communities, to whom rights such as healthy work-life balance; reasonable working hours, leave, and the ability to disconnect outside of designated work hours is due.
  - d. The right to expect that organizational practices and policies are inclusive and do not perpetuate discrimination or exclusion.
3. This Guidance proposes that treating employees in accordance with their rights to human dignity is not only consistent with equal employment opportunity principles—it is also integral to organizational success.

### I. Statement of Policy Purpose

- a. A statement of purpose is a crucial component of any policy document. It articulates a policy's objectives, providing a clear and concise expression of what a policy seeks to achieve. In the event of ambiguity or uncertainty, a clear statement of purpose provides readers with the interpretive guidance necessary to construe policy language in a manner that effectuates a policy's spirit or intent.
- b. In developing a policy brief or statement of purpose, organizations should consider identifying what, precisely, an inclusive workplace *means* to them. It may be helpful for organizations to identify how their definition of “inclusion” and “culture” will be

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<sup>13</sup> See endnote ii.

applied to shape and inform the daily experience of employees within the workplace.

- c. Common workplace experiences include the following:
  1. The accessibility of the spaces, tools, and technologies employees are required to navigate.
  2. The management model and conditions under which employees are required to work.
  3. The degree of autonomy granted to employees to:
    - i. Work in a manner that best aligns with their diverse abilities and needs.
    - ii. Work in a manner most consistent with their health and well-being.
  4. The extent to which employees can safely rely upon or confide in organizational complaint resolution processes to voice their concerns or report misconduct; and have such concerns be promptly addressed.
  5. The extent to which employees are provided with the necessary time and resources to accomplish identified tasks; and the extent to which employee perspectives are included in project or task design itself.
  6. The extent to which employees are provided the necessary training and tools to understand, respect and observe the human rights of others.
  7. The extent to which employee perspectives are valued, sought after; and incorporated into an organization's decision-making processes.
- d. In exploring and defining concepts such as "inclusion" or "culture"—organizations may find it helpful to identify words that capture how an organization desires its employees to *feel* within the workplace. For example, does your organization desire to create a work environment that *feels* exciting? Collaborative? Flexible? Caring? Supportive? Will employees like showing up to the workplace you seek to create? Will they see themselves reflected in your organization? In leadership? In senior management? Will they want to build a career at your organization? Will they want to stay?
- e. The above questions are not only critical equal employment opportunity indicators—they are also key talent attraction and retention ones. Defining how an organization desires its workplace to *feel* helps inform policy development. The sample policy language below reflects a human-first approach to workplace inclusion and culture. It is provided for reference alone. Organizations are encouraged to develop and define their own culture.

[Organization] is committed to a human-rights affirming culture that provides persons of all characteristics and abilities, with the environment, resources, and supports necessary to thrive as their best selves. To ensure an inclusive work environment, all policies, and practices, related to the workplace, must recognize the right of employees and candidates to:

1. To self-identification and authentic self-expression.
2. To accessible workspaces (both physical and digital).
3. To accessible workplace technologies, collaborative tools, equipment, and other resources.

4. To inclusive inter-personal communications.

## II. Definitions to Support Policy Interpretation

- a. A “definitions’ sub-provision is integral to any policy document. It ensures a shared understanding of key terms that are critical to the proper comprehension and correct application of a policy’s terms. In defining terms specific to this policy, organizations may consider drawing from, adding to, or adopting the following sample “Definitions” policy provision.

**Deadnaming** Referring to a transgender person by a name they used prior to transitioning and no longer use, such as their birth name, thereby undermining a person's gender identity and the steps they have taken to affirm it.

**Gender Expression** Refers to the way a person presents and communicates their gender. It can include behaviour, outward appearance, name and pronouns. A person’s gender expression is not fixed and may change over time.

**Gender Identity** Refers to a person’s internal and individual experience of gender. It is not necessarily visible to others and may or may not align with an individual’s assigned sex at birth or gender expression. Gender identity is not fixed and may change over time.

**Gender Policing** Refers to discriminatory policies or practices that discourage or penalize behaviors or expressions that do not conform to dominant gender norms while encouraging/rewarding those that do.

**Inclusion** Refers to the continuous process of fostering workplace conditions where all individuals feel valued, welcomed, respected, represented, and able to participate fully and equally.

**Legal Name** Refers to the name of an individual as it currently appears on official records (e.g., provincial or federal records). An individual’s legal name may be amended through relational changes such as marriage or divorce. It may also be amended voluntarily through a change of name certificate.

Organizations should be mindful that laws often prioritize the naming practices, languages, and conventions of dominant white European groups, with English or French traditions. Due to colonization and discriminatory laws such as the *Indian Act*, legal recognition of Indigenous naming practices is relatively recent. To be equitable, organizations must recognize the naming conventions, linguistic diversity and unique characters, syllabics, accents,

numbers, and other symbols used by Indigenous and other marginalized ethno-racial communities.

**Misgendering** Referring to an individual using a gender pronoun that they do not use thereby undermining a person's gender identity and the steps they have taken to affirm it.

**Preferred or Chosen Name** Refers to the name an individual desires or has elected to be called within the workplace.

## SCHEDULE 1:

### Right of Persons to Identity and Authentic Self-Expression

In developing an inclusive workplace policy, organizations are encouraged to adopt policy provisions that recognize and observe the identity rights of persons. This includes:

1. Policy provisions that preference the use of a person's gender pronouns and chosen name.
2. Dress code and grooming policies that protect the right of persons to present in accordance with their protected expression.
3. Policy provisions that protect an individual's right of to access washroom, change room, and other similar facilities in accordance with their gender identity and expression.

#### I. Identity Affirming Use of Pronouns and Chosen/Preferred Name

- a. An organization's human resource records should identify:
  1. An employee's or candidate's legal name and the phonetic pronunciation of that name.
  2. An employee's or candidate's **chosen** name and the phonetic pronunciation of that name.
  3. An employee's or candidate's gender identity and pronouns.
- b. When gathering details concerning a candidate's or employee's legal and preferred name, human resource record entry forms and procedures must be designed inclusively to recognize Indigenous and other marginalized ethno-racial naming practices. This inclusivity should encompass languages, special characters, syllabics, accents, and symbols representative of these communities.
- c. All human resource records, correspondences, documents, and other related organizational processes must affirm:
  1. An individual's gender identification.
  2. An individual's **chosen** name.
- d. An employee's or candidate's legal name should only be used to the extent required by law (e.g., offers of employment, employment contracts, payroll forms, tax documents, retirement, health insurance, benefits, and other similar documents of a legal nature). To maintain legal compliance while upholding the dignity and rights of individuals with diverse sexual orientations, gender identities, gender expressions,

and sex characteristics (“SOGIESC”), legal documents should prioritize the utilization of both the **chosen** and legal names.

- e. Organizations should develop privacy and safety protocols specific to the use of an individual's gender pronoun **and chosen** name. An employee's or candidate's pronoun and **chosen** name may not be known, recognized or safe to be known or recognized by persons outside of the workplace. Employers should, therefore, take great care in protecting **all** aspects of an employee's protected identity.
- f. That is—an organization's human resource records should distinguish between the *internal* and *external* use of a candidate's or employee's pronoun and **chosen** name. For example,
  - 1. Pronoun and **preferred** name and use in or during external, third-party communications such as reference checks.
  - 2. Pronoun and **preferred** name use in official correspondences delivered to employee's or candidate's mailing address.
  - 3. Any other such external communications or documents, including publications, advertisements, and media-related materials.
- g. Organizations should also develop processes to support employees seeking to amend their legal name, chosen name, and gender pronouns. While legal name changes should be accompanied by legally required, supporting documents—changes to an individual's chosen name and gender pronoun should generally be allowed without precondition or barriers.
- h. An organization's name change process should further consider soliciting information as the following:
  - 1. **When** an employee or candidate would like to share information specific to their name or pronoun change.
  - 2. **How** an employee or candidate would like to share this information.
  - 3. **With whom** an employee or candidate would like to share this information.
- i. An organization's name and pronoun change process should notify persons requesting the same of the following, if and where applicable:
  - 1. The availability of gender-transitioning specific resources and supports under an organization's health insurance, leave and other benefits policy.
  - 2. The requestor's right to an individualized gender transition accommodation plan,<sup>14</sup> as per terms of an organization's accommodations policy.
  - 3. Any other relevant, related resources or supports.

## II. Identity Affirming Design of Dress Code & Grooming Policies

- a. Dress and grooming are essential components of protected expression. In designing policy provisions specific to dress and grooming—organizations are encouraged to adopt only those restrictions necessary to support a *bona fide occupational requirement*. Organizations are encouraged to consult the provincial human rights

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<sup>14</sup> A sample transition accommodation plan can be found here: <https://www.toronto.ca/city-government/accountability-operations-customer-service/city-administration/corporate-policies/people-equity-policies/accommodation/guidelines-for-accommodating-gender-identity-and-gender-expression/>

legislations to which they are subject to identify what a *bona fide business occupational requirement* is, and the proof requirements needed to support use of this legislative exemption.

b. For reference only, a sample dress and grooming policy provision is included below:

1. All employees are entitled to dress in accordance with their gender identity and gender expression, religion, ethnocultural identity, and other forms of protected expression—whether these identities have been disclosed to the employer or not.
2. In no way should choice of dress or grooming by an employee require subsequent disclosure of that employee’s protected characteristic to the employer, except to the extent directly relevant to an accommodation process.
3. While [Organization] has the right to implement policies specific to dress and grooming, where there is a *proven bona fide business purpose*, these policies cannot:
  - a. Prohibit or limit the use of hairstyles or grooming practices associated with protected identities and characteristics, including but not limited to hair textures and types, natural or protective hairstyles such as afros, braids, twists and more.
  - b. Prohibit or limit the use of ethnic, cultural or religious garments, including but not limited to wraps, kippahs, yarmulkes, dastars, saris, hijabs, or other garments.
  - c. Segregate clothing by gender.
4. When an employee’s dress or grooming poses a risk to health and safety, [organization] commits to working with the affected employee to reach an amicable resolution.

**III. Identity Affirming Access to Bathroom, Changeroom, and Other Intimate Facilities**

- a. Organizations should respect the right of individuals to use the intimate facility that aligns with their internal gender identity; and that offers the greatest sense of personal safety, privacy, dignity, and comfort. By intimate facility, this Guidance refers to spaces within a facility designed for activities such as changing clothes, personal grooming, or restroom use, where individuals may need a certain level of seclusion and privacy.
- b. This Guidance acknowledges the below distinctions as it regards such facilities; and encourages organizations to preference the use of multi and single use all gender facilities.

| All Gender Facilities  | Gender Segregated Facilities  |
|--|---|
| Multi or single use facilities that can be used by all persons irrespective of gender. | Multi-stall or single use facilities that are restricted by gender. |

c. All gender, single use facilities:



1. Support the safety needs of SOGIESC diverse persons, who report discriminatory incidents of gender-policing with greater frequency in gender-segregated facilities.
  2. Support the varied, reasonable, privacy needs of employees who require or prefer use of intimate facilities without concerns of being in the presence of others.
- d. Organizations should further consider:
1. Prohibiting all persons from requesting, demanding or otherwise requiring proof of sex or gender to access an intimate facility.
  2. Prohibiting harassment and discrimination of any kind in the use of such facilities.
- e. Human rights affirming signage (as inclusive of both language and imagery) should be posted on all facilities. This signage should unambiguously communicate the following:
1. That the facility is gender inclusive.
  2. That gender policing by other occupants within the facility, is prohibited and will be subject to disciplinary action, including removal from such facilities.
- f. In addition to the above, organizations should further consider equipping all facilities with:
1. Waste boxes for hygienic and menstrual products in each stall.
  2. Sharps bins and biohazard disposal bins in each stall.
  3. Free hygienic and menstrual products in each stall.
  4. Extended floor-to-ceiling privacy dividers between stalls and urinals.
  5. All other universal design features necessary to ensure equal access.

## SCHEDULE 2:

### Right of Persons to Accessible Workspaces

To create an inclusive work environment, organizations should consider accessible building and agile workplace design.

| <b>Agile Workplace Design</b>   | <b>Accessible Workplace</b>   |
|---|---|
| Allows employees to choose from a variety of workspaces, such as private offices, open collaboration areas, quiet zones, and standing desks. This flexibility accommodates diverse needs. | Ensures that all persons, particularly individuals with disabilities, are able to navigate environments, tools, technologies, programs and services without barriers. |

#### 1. Identity Affirming Use of Pronouns and Chosen/Preferred Name

In developing policies specific to accessible building design, organizations are encouraged to adopt the compliance plus approach first articulated in *the Equal Employment Opportunity Policy Guidance*.

- a This approach suggests that the architectural design of physical spaces should go beyond existing legislative requirements to holistically address equity deficits. As has been observed by the Canadian Commission on Buildings and Fire Codes, provincial building codes primarily account for the needs of wheelchair users—to the detriment of accessibility needs in the areas of agility, hearing, vision and cognition.<sup>15</sup>
- b Common building code accessibility features include, but are not limited to the following:
  - i. **Use of ramps or sloped surfaces** instead of or in addition to stairs to facilitate greater access for individuals using wheelchairs, walkers, or other mobility aids.
  - ii. **Use of elevators** to enable vertical mobility.
  - iii. **Use of wide doorways, hallways, entrances, and rooms** to accommodate wheelchairs and other mobility devices.
  - iv. **Use of grab bars, accessible sinks, and larger stalls** in intimate facilities to ensure ease of access for individuals with mobility needs.
  - v. **Broader use of handrails and grab bars** in hallways and stairways to account for the general mobility needs of individuals, requiring greater balance and stability support.
  - vi. **Use of designated parking spaces** within close distance of building entrances to facilitate greater ease of access for individuals with disabilities.
  - vii. **Use of automatic doors** equipped with sensors that facilitate building entrance whenever an individual approaches.
- c Though a step forward, the above features are not enough. To ensure greater accessibility, organizations should account for the proven accessibility needs of all. This includes:
  - i. **Use of braille signage** on signs and elevators for individuals with visual impairments.
  - ii. **Use of visual and auditory alerts** for alarms and important communicational for individuals with visual and hearing impairments.
  - iii. **Use of tactile surfaces or flooring indicators** to aid people with visual impairments in navigation and orientation.
  - iv. **Use of sensory technology** to control for light intensity and spectrum, sound amplitude and direction, air quality, temperature, odour, etc.
  - v. **Use of assistive technology** such as indoor navigation systems to guide visually impaired persons through office floor plans through voice feedback, using smartphone location to measure a user's position and direction. Orientation information should:

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<sup>15</sup> "Policy Paper: Accessibility in Buildings," (Ottawa: Canadian Commission on Buildings and Fire Codes, 2021). [https://nrc.canada.ca/sites/default/files/2021-07/ccbfc\\_policy\\_position\\_paper\\_on\\_accessibility\\_in\\_buildings.pdf](https://nrc.canada.ca/sites/default/files/2021-07/ccbfc_policy_position_paper_on_accessibility_in_buildings.pdf)

- a. Allow users to identify the most optimal route to take to reach a desired workplace location as per an individual's particular accessibility needs.
  - b. Advise users of their present location in relation to their immediate surroundings. For example, "You are approaching the elevators."
- d. These suggestions are not exhaustive. Organizations are encouraged to develop policy provisions that:
  - i. Center principles of universal design.
  - ii. Require use of a steering committee or external organization, led by persons of diverse disabilities, to identify and address non-accessible building features.
  - iii. Account for the diversity of needs that exists within the spectrum that is disability.
  - iv. Develop a multi-year strategy or plan pursuant to which all building features must conform to principles of universal design.
  - v. Account for this plan through the publication of periodic audits.

## 2. Accessible Digital Cloud Based Work Environments

- a. Today's workplace is increasingly digital. To ensure equal access, organizations are encouraged to adopt policy provisions that require:
  - i. Organizational websites, mobile applications, and technology to be accessible to persons with diverse accessibility needs.
  - ii. Organizations to periodically audit the accessible nature of digital technology; and timely implement recommendations contained therein.
  - iii. Organizations to train employees on how to contribute to an accessible cloud experience; and how to facilitate accessible virtual meetings and conferences.

### SCHEDULE 3:

#### Right of Persons to Accessible Technologies, Tools, and Equipment

- a. To create an inclusive work environment, organizations should further consider the adaptable nature of the technology, tools and equipment provided to employees. To be particularly effective, all workplace technologies and tools should be equipped with built-in, easily identifiable, and navigable accessibility features. These features may include, but are not limited to the following:
  1. **Vision.** Magnified screens, screen readers, text-to-speech functions, high contrast displays, Braille output devices to assist individuals with vision impairments. Vision impairment includes blindness, color blindness, or low vision.
  2. **Mobility.** Keyboard shortcuts, dictation features, eye control, or voice navigation to assist individuals with mobility impairments. Mobility impairments restrict a person's ability to use limbs, walk or manipulate objects.

3. **Hearing.** Auto-generated video captions, real-time subtitles and transcription, visual alerts, mono audio functions and sign language interpreters to assist individuals with hearing impairments, as inclusive of persons who are deaf, have hearing loss, or are hard of hearing.
- b Organizations should further consider:
    1. Assessing each employee’s user knowledge of technology used by the employer to communicate or perform work tasks.
    2. Creating a plan to address gaps in user knowledge.
    3. Choosing technology and communication channels that employees are most familiar with.
  - c As it relates to workplace equipment and furniture—organizations should consider adopting policy provisions to prioritize the provision and use of ergonomic equipment.

#### SCHEDULE 4:

##### Right of Persons to Inclusive Interpersonal Communications

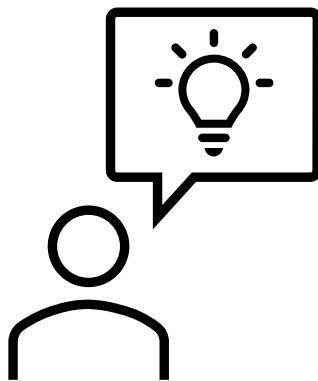
- a An employee’s experience of inclusion is not limited to access to workspaces (whether physical and/or digital), tools and technologies alone. It also includes an employee’s access to feelings such as belonging and safety. These feelings, of course, are largely informed by an employee’s interpersonal, intercollegiate experience.
- b For instance, individuals with disabilities frequently feel disabled, *beyond their condition*, by societal prejudices and attitudinal barriers. A 2019 study of over 700 disabled workers found that approximately 82% of respondents identified “finding truly disability-friendly employers” as their primary barrier to equal employment opportunity. 71% of respondents rated their employers’ empathy and understanding about disability as poor, even when employers described themselves as equal opportunity employers.<sup>13</sup>
- c Concerns over inclusion extend to other equity-denied communities as well. 2SLGBTQI+, women and gender minorities, Indigenous, racialized, and other workers are more likely to report feeling misunderstood, isolated, and unsafe at work than their non-equity-denied counterparts.<sup>1</sup>As such, organizations should consider adopting policy provisions that mandate ongoing employee education and training as necessary to cultivate an IDEA literate, cross-cultural competent workforce. A particularly useful tool for organization’s may be an *Inclusive Language and Behavior Guideline*. For further guidance, organizations are encouraged to refer to the *Respectful Workplace Policy Guidance*.

## **Part III**

### **Anti-Discrimination and Harassment Policy**

## RESPECTFUL WORKPLACE POLICY GUIDANCE

1. This resource leads with the premise that inclusion, diversity, equity, and accessibility (“IDEA”) competency is a condition precedent to employment qualification. It develops policies and processes specific to the cultivation, maintenance, and ongoing training of an IDEA literate workforce. It provides clear guidance regarding the duties and responsibilities of individuals employed in the following roles:
  - a Roles requiring engagement with other employees, vendors, suppliers, contractors, patrons, or members of the public.
  - b Roles requiring the exercise of responsibility and authority over others (managers).
  - c Roles requiring the exercise of specific IDEA responsibilities (Human Resources).
  - d Roles requiring executive oversight of IDEA within an organization (President, Executive Director, Director, etc.).
2. It identifies what behaviors and practices qualify as acts of harassment, discrimination, reprisal, and/or condonation in violation of this policy. It also identifies what behaviors and practices facilitate belonging and inclusion, as per terms of an organization’s *Inclusive Language and Behaviors Guideline*.



### DID YOU KNOW?

*An Inclusive Language and Behavior Guideline* promotes respectful communication and interactions within a diverse and multicultural work environment. It teaches employees to adopt language and behaviors that avoid marginalizing, stereotyping, or excluding other employees based on characteristics such as gender, race, ethnicity, sexual orientation, disability,

### I. Statement of Policy Purpose

- a. A statement of purpose is a crucial component of any policy document. It articulates a policy's objectives, providing a concise expression of what a policy seeks to achieve. In the event of ambiguity or uncertainty, a clear statement of purpose provides readers with the interpretive guidance necessary to construe policy language in a manner that effectuates a policy's spirit or intent.

- b. In developing a respectful workplace policy, organizations should consider articulating a clear statement of purpose. This statement should define an organization's commitment to a positive, inclusive work environment. There should be no ambiguity regarding the condition, terms and nature of the work environment employees can expect to operate within. There should further be no ambiguity regarding the rights and responsibilities held by employees towards the co-cultivation and maintenance of this environment. A sample policy provision is included for reference purposes below.

- a. [Organization] commits itself to cultivating and sustaining a respectful work environment. One informed by inter-collegiate commitment to IDEA informed practices. These practices are defined in the *Inclusive Language and Behaviors Guideline* that inform this Policy's sub-chapters.
- b. Here, the human dignity and intrinsic value of each employee is valued. We, as an [Organization], commit to providing employees with the training, knowledge, resources and tools necessary to operate in an IDEA literate manner.
- c. Employees in turn are bound to this Policy's ethics, the summation of which is as follows: that all employees must act in a manner consistent with the solemn awareness that we are each to one another equal in human dignity and in rights.
- d. Failure to abide by this Policy's ethics, in the form of actions and/or omissions, which diminish the dignity and/or rights of any employee, is a violation of the collective rights held by all, to a positive, safe and inclusive workplace.

## II. Application and Scope

- a. An organization's respectful workplace policy should consider identifying the scope of persons to whom its policy applies. "Application and scope" language is particularly important when an organization seeks to vest certain substantive rights and procedural entitlements to persons not otherwise employed by or possessing a contractual relationship with the organization in question. For example, candidates for employment.
- b. Scope language is also particularly useful in identifying and defining the reach of an employer's authority to regulate and discipline the off-duty acts of employees, occurring beyond the physical or digital confines of the workplace, but otherwise having a nexus to or negative affect upon the health, safety, and human dignity of workplace relationships.

## III. Governing Legislation, Regulations, and Other Collective Agreements

- a. An organization's Respectful Workplace Policy should adopt the requirements set forth in provincial anti-discrimination and anti-harassment legislation. Sample policy language is included for organizational reference below.

This Respectful Workplace Policy upholds (legislation); and complies with (legislation).

#### IV. Definitions to Support Policy Interpretation

- a. A “definitions’ sub-provision is integral to any policy document. It ensures a shared understanding of key terms that are critical to the proper comprehension and correct application of a policy’s terms. In defining terms specific to this policy, organizations may consider drawing from, adding to, or adopting the following sample “Definitions” policy provision.

**Affinity to a Protected Characteristic**

Refers to an act of harassment or discrimination perpetrated due to the following:

1. An individual’s perceived protected trait or characteristic.
2. An individual’s association with or proximity to a person possessing or being perceived as possessing a protected characteristic.

**Bad Faith Complaint**

Refers to the act of submitting a Respectful Workplace Policy complaint knowing that there has been no actual policy violation.

**Condonation**

Refers to the failure of management, in keeping with its authority, to respond to a Respectful Workplace Policy complaint or allegation expeditiously and effectively upon notice of a potential breach.

**Discrimination**

Refers to a practice or behavior, whether intentional or not, that has a negative impact or effect upon an individual or group, based on a statutorily protected characteristic—whether actual or perceived. To constitute discrimination, it’s not necessary that the protected characteristic be the cause of an individual’s or organization’s discriminatory conduct. The characteristic need only be a factor.

**Grounds-Based Harassment**

Refers to harassment occurring due in whole or part to an individual’s actual or perceived belonging to or association with a protected characteristic.



**Hate Activity**

Refers to negative comments or actions against a person or group motivated by hostility, bias, or prejudice, on the basis of any protected group trait or characteristic. Hate activity includes, but is not limited to:

1. Verbal or physical expressions or communications of malice.
2. Acts or comments seeking to demean, degrade, harm, incite or promote violence or prejudice.

**Impermissible  
Managerial  
Approaches or  
Practices**

Refers to managerial practices that negatively impact employee morale, productivity, and human dignity. Such practices may give rise to claims of a poisoned, hostile, or otherwise negative work environment, harassment, or discrimination. Except that reasonable actions taken by a manager or supervisor to manage or direct the workplace cannot substantiate a Respectful Workplace Policy claim.

- a. Examples of unreasonable, impermissible conduct that may give rise to a Respectful Workplace Policy claim includes:
- b. Fostering a workplace culture of fear.<sup>16</sup>
- c. Exercising excessive and intrusive levels of control, oversight, and interference over the most minute details of an employee's work.
- d. Imposing excessive workloads, unrealistic deadlines, and unnecessary pressure.
- e. Mandating employees to perform tasks inferior to their competencies that have the effect of demeaning or belittling them.
- f. Privately or publicly humiliating, degrading, chastising, or insulting an employee.
- g. Refusing to consider and actively disregarding employee input, feedback, and ideas.

**Poisoned Work  
Environment**

Refers to acts or comments that negatively affect workplace relationships, communication, and productivity due to: harassment; discrimination; and/or impermissible managerial conduct that destabilizes an employee's sense of human dignity, value and self-worth.

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<sup>16</sup> Managers must help promote a work environment where all employees feel secure in utilizing their employment rights, privileges, and benefits. This encompasses the safety to voice valid concerns and be heard, the freedom to raise complaints or grievances without facing retaliation, and the assurance of accessing benefits, seeking accommodations, filing for leave, and flexible work arrangements without fear of reprisal, loss of job security, promotion opportunities, or prejudice.

A poisoned work environment may result from a single incident or comment if sufficiently serious or egregious.

Moreover, a poisoned work environment may result from:

1. First-hand experience of negative comments or behaviors.
2. Second-hand experience of observing, witnessing, or being made subject to a workplace where negative comments or behaviors occur.

**Reprisal**

Refers to the act of threatening or retaliating against an individual for exercising a right under the Respectful Workplace Policy or for participating in complaint resolution processes.

**Workplace Conflict**

Refers to disagreements, tensions, or disputes that arise between individuals or groups within an organization due to differing interests, opinions, goals, values. Workplace conflict has the potential to disrupt collaboration, hinder productivity, and negatively impact the overall work environment.

**Workplace Harassment**

Refers to a course of vexatious comment or conduct against an individual in the workplace that is known or reasonably ought to be known to be unwelcome. A single incident or comment may constitute harassment, as dependent upon the circumstance. Factors to consider include, but are not limited to:

1. The egregious nature of the act or comment.
2. The power dynamics/nature of the relationship between the acting and impacted party.
3. The context in which the act was perpetrated, or the comment made.
4. Whether or not the recipient of the comment or action is a member of a group historically discriminated against.

**Workplace Sexual Harassment**

Refers to a course of vexatious comment or conduct against an individual in the workplace due, in whole or in part, to sex, sexual orientation, gender identity or gender expression, where the comment or conduct is known or reasonably ought to be known to be unwelcome.

As with general workplace harassment, a single incident or comment may constitute workplace sexual harassment, as per the factors and circumstances identified above.

**Workplace**

Sexual solicitation refers to:

**Sexual Solicitation and Related Reprisal**

1. The act of sexually soliciting or making an advance on an individual.
2. Where the person making the solicitation or advance, is in a position to confer, grant, or deny an employment benefit; and
3. Where the sexual solicitation or advance is known or ought reasonably to be known to be unwelcome.

Reprisal refers to:

1. The act of retaliating against an individual for the rejection of a sexual solicitation or advance,
2. Where the act of reprisal is committed or threatened to be committed by a person in a position to confer, grant, or deny an employment benefit.

**V. Duties and Responsibilities**

- a. In identifying duties and responsibilities specific to the administration of any respectful workplace policy—organizations should note that cultivating a positive workplace is a shared responsibility of **all** personnel. Organizations are encouraged to consult the sample language provided below for reference.

|   |  |
|---|--|
| <p><b>Employees with Non-Supervisory Duties</b></p>     | <ol style="list-style-type: none"> <li>1. Must respect the human dignity of all individuals within the workplace.</li> <li>2. Must comport themselves in accordance with the <i>Inclusive Language and Behavior Guideline</i> supporting this Policy.</li> <li>3. Must actively participate in all trainings administered by mandate of this Policy, the Inclusive Workplace Policy, and any other equity policy.</li> <li>4. Are expressly charged with knowledge of this Policy’s terms and are required to continuously be apprised of its provisions.</li> <li>5. Must participate fully and timely in all complaint resolution processes administered under this Policy—to include maintaining the confidentiality of said processes.</li> <li>6. Must timely notify non-involved management personnel and/or the Respectful Workplace Office of conduct that may violate the prohibitions set forth in this Policy.</li> </ol> |
| <p><b>Employees with Oversight Responsibilities</b></p> | <p>Employees with supervisory or managerial responsibilities:</p> <ol style="list-style-type: none"> <li>1. Must receive training on this Policy prior to the discharge of any oversight responsibility.</li> <li>2. Must continuously engage in equity related trainings for the duration of employment.</li> </ol>   |

|  |  |
|--|--|
|  | <ol style="list-style-type: none"> <li>3. Must model the standards of respectful and professional conduct, as per terms of the <i>Inclusive Language and Behavior Guideline</i>, supporting this Policy.</li> <li>4. Must promote human rights awareness amongst reporting employees.</li> <li>5. Must cultivate an environment where employees feel safe to express their grievances and concerns, with the assurance that these concerns will be timely and effectively resolved.</li> <li>6. Must not engage in impermissible management methods, as defined in this Policy.</li> <li>7. Must take timely <b>preventative and corrective</b> action to resolve behaviors that negatively impact or effect the work environment or work relationships <b>before</b> such behaviors escalate into a Respectful Workplace Policy complaint of misconduct.</li> <li>8. Must contact the Respectful Workplace Office:       <ol style="list-style-type: none"> <li>a. Upon receipt of a Respectful Workplace Policy complaint or claim.</li> <li>b. Upon awareness of comments or conduct constituting a potential violation of this Policy.</li> </ol> </li> <li>9. Must participate promptly and as fully as necessary in all complaint resolution processes carried out under this Policy.</li> <li>10. Must make provision, in terms of time and resource allocation, for reporting employees to promptly participant in complaint resolution processes.</li> <li>11. Must assist in the restoration of work environments and relationships affected by claims filed under this Policy.</li> </ol> |
| <p><b>Respectful Workplace Office(r)</b></p> | <p>Employees with human resource responsibilities, as specific to the administration of this Policy:</p> <ol style="list-style-type: none"> <li>1. Must oversee the diligent, uniform, and just application of this Policy.</li> <li>2. Must ensure that no individual operating within the workplace is exempt from this Policy’s provisions.</li> <li>3. Must provide expert guidance, advice and instructional resources to senior leaders, mangers, and other organizational partners as it regards best practices in the timely identification and resolution of workplace conflict, discrimination, harassment and other Respectful Workplace Policy issues.</li> <li>4. Must research, publish and ensure the continuing accurate nature of this Organization’s <i>Inclusive Language and Behavior Guideline</i>.</li> <li>5. Must ensure that all employees are thoroughly trained on:       <ol style="list-style-type: none"> <li>a. The terms of this Policy;</li> <li>b. [Organization]’s complaint resolution processes; and</li> </ol> </li> </ol>   |

|   |  |
|---|--|
|   | <p style="text-align: center;">c. [Organization]’s <i>Inclusive Language and Behavior Guideline</i>.</p> <ol style="list-style-type: none"> <li>6. Must facilitate all complaint resolution processes, under this Policy, in a timely, impartial manner.</li> <li>7. Must ensure that any agreed upon remedy or corrective action under this Policy is timely implemented.</li> <li>8. Must provide neutral information and support to all participating parties. This includes consultation services to all employees seeking clarity or guidance with respect to workplace conflict, discrimination, or harassment issues.</li> <li>9. Must develop a guideline to ensure uniform disciplinary action.</li> <li>10. Must maintain data regarding complaint activity filed under this Policy.</li> <li>11. Must leverage data analytics, research analysis, and employee feedback to constantly improve upon this Policy and this [Organization]’s complaint resolution processes.</li> </ol>   |
| <p><b>Department Heads and Executive Leadership</b></p> | <p>Employees with executive responsibilities—must adhere to the following requirements:</p> <ol style="list-style-type: none"> <li>1. Must actively engage in and be trained on the contents of this Policy and associated equity Policies, prior to the discharge of any executive responsibility.</li> <li>2. Must continuously engage in equity related trainings for the duration of employment.</li> <li>3. Must demonstrate the standards of respectful, inclusive and professional conduct, as per terms of the <i>Inclusive Language and Behavior Guidelines</i>, supporting this Policy.</li> <li>4. Must provide leadership in the fostering and sustaining of a respectful work environment.</li> <li>5. Must develop workplace harassment and discrimination prevention strategies as based on executive analysis of workforce data.</li> <li>6. Must allocate sufficient funding and personnel support to facilitate the prevention and resolution of workplace harassment and discrimination issues.</li> <li>7. Must establish internal reporting requirements and accountability systems to monitor Respectful Workplace Policy compliance.</li> <li>8. Must hold managers accountable for the maintenance of a positive work environment.</li> <li>9. Must receive and promptly act upon workplace harassment and discrimination reports.</li> <li>10. Must decide upon appropriate remedies, up to and including termination, to resolve a harassment or discrimination report.</li> </ol> |

|  |   |
|--|---|
|  | 11. Must ensure the effective implementation of settlements, remedies, and corrective action. |
|--|---|

## VI. Mandatory Requirements

### Information and Awareness

- a. Organizations should consider adopting minimum training and awareness requirements to support the development of an IDEA literate workforce, such as:
  1. Requiring all candidates for employment to demonstrate a minimum level of IDEA competency as a prerequisite to job role or employment qualification. Prior to implementing this requisite, organizations should provide candidates with a clear understanding of what IDEA competency requires. This is a fair hiring practice. By clearly articulating standards, employers provide candidates with the opportunity to demonstrate their existing ability or future capacity to meet them.
  2. Requiring all incumbent employees to be trained on an organization's Respectful Workplace Policy, complaint resolution processes, and *Inclusive Language and Behavior Guideline* prior to the assignment of any work-related task.
  3. Requiring all employees to engage in continuous education and training.

### Confidentiality and Privacy

- b. Organizations should consider requiring all information obtained through a Respectful Workplace Policy complaint, including identifying information about any individual involved—be it a complainant, respondent or witness—to be confidential.
- c. Confidentiality should not apply where disclosure of identifying information is necessary:
  1. To investigate or otherwise take corrective action with respect to a Respectful Workplace Policy complaint.
  2. To provide complainant(s), respondent(s) and/or witnesses) with the information necessary to effectively participate in the complaint resolution process; to respond to requests for information or defend against allegations.
  3. To comply with legal requirements.
- d. Organizations should:
  1. Provide respondents and complainants with due process.
  2. Provide witnesses with only the information necessary to establish and contextualize their observance of incidents reported in a complainant's or respondent's allegations.
  3. Consider not vesting witnesses with rights to greater complaint information. This includes information regarding incidents neither seen, observed, or known of by a witness; identifying information with respect to other persons involved in the investigation; and final findings.

- e. Because complaints consist of allegations that are unsubstantiated (that is not yet proven to be true)—organizations should prohibit the practice of recording Respectful Workplace Policy (“RWP”) complaint history in an employee’s files, absent the following:
  1. An affirmative finding of wrongdoing.
  2. Leave, resignation, or separation from employer prior to the conclusion of an RWP investigation.
  3. An employee’s engagement in isolated acts insufficient to constitute a policy violation against one employee, but sufficient to establish a pattern of offensive conduct as engaged in against several employees.

### **Timeliness**

- f. Organizations should consider setting forth specific time frames within their complaint resolution processes for the timely investigation and resolution of Respectful Workplace Policy claims. Sample language is included for reference below.

All Respectful Workplace Policy complaints filed must be thoroughly investigated, with final findings, and disciplinary recommendations, where applicable, being issued within \_\_\_\_\_ days of the complaint’s initial lodging.

- g. In addition to the above, organizations should adopt a sunset clause to establish the length of time complainants have to file a Respectful Workplace Policy complaint. This limitation period may be waived upon good cause shown. For example, instances of harm where it is scientifically known that due to trauma, delayed reporting is common. The organization’s policy cannot override the timelines set out in legislation.
- h. Complaint filing deadlines are beneficial to all concerned parties—respondents and complainants alike. Timely reporting allows organizations to respond to Respectful Workplace Policy allegations more promptly and effectively. Over time, memories fade. Witnesses and respondents may resign, be terminated from, or otherwise transition from an organization. Documents may be lost or destroyed. These common occurrences severely restrict an organization’s ability to respond to dated incidents of harassment or discrimination—leaving complainants with the scars of alleged past harms inflicted, and no institutional remedy.
- i. Given the above evidence staleness concerns, organizations should consider requiring all parties to timely cooperate in the resolution of Respectful Workplace Policy complaints.
- j. Organizations should further consider vesting complainants, respondents, and witnesses (“CRWs”) with the right be accompanied by a support person (of their choosing) as well as by a bargaining agent (where applicable), during complaint resolution processes related to this policy. Such persons should not speak on behalf of CRWs. Their mandate is to advocate for the conditions necessary for CRWs to feel safe to engage in RWP processes.

## **Health and Safety**

- k. Organizations should be mindful that individuals participating in Respectful Workplace Policy (“RWP”) complaint resolution processes may request a health and safety plan.
- l. When addressing health and safety concerns, it's essential to strike a balance between addressing the safety needs of the requestor while maintaining the due process rights of other impacted parties. This means minimizing actions, which may be perceived as a form of punishment or negative consequence for a named party, who is the subject of an RWP allegation, that has not yet been proven true.
- m. Health and safety requests may manifest in various ways, such as a separation request aimed at reducing contact between the complainant and respondent. These requests should be handled with care. The objective is to create an environment where all employees feel safe, while also ensuring that allegations are investigated and adjudicated in a manner that upholds principles of justice and equity.

## **VII. Policy Violations**

- a. In setting forth clear expectations regarding how employees are expected to behave to support the inclusion and belonging of all within the workplace—organizations should explicitly identify the conduct prohibited under their Respectful Workplace Policy. Sample language has been provided below for organizational reference.

The following behaviors or practices, affirmative actions, or omissions constitute violations of this Policy’s terms and provisions:

1. Workplace harassment of any kind.
2. Grounds-based harassment or discrimination in any aspect of employment, including but not limited to recruitment, selection, promotion, learning and development, performance management, layoff, pay and benefits, termination, job assignment, accommodations, and leaves of absences.
3. Failure or refusal to offer effective and appropriate employment accommodations, short of undue hardship.
4. Sexual harassment.
5. Sexual solicitation and related reprisal.
6. Hate activity.
7. Creating or contributing to a poisoned work environment of any kind.
8. Impermissible managerial approaches or practices.
9. Condonation or failure on the part of management, in keeping with its authority, to respond effectively and expeditiously to Respectful Workplace Policy complaint.
10. Interference with a Respectful Workplace Policy complaint resolution processes, including but not limited to intimidating a complainant, respondent, or witness; influencing a person to provide false or misleading information; attempting to influence complaint resolution findings, engaging in acts of reprisal to discourage witness, complainant, or respondent participation.
11. Reprisal.



12. Breach of confidentiality of complaint resolution processes.
13. Bad faith filing of a Respectful Workplace Policy complaint.

### VIII. Standards of Review and Consequences for Policy Violations

- a. Organizations should specify the disciplinary consequences associated with a policy breach or misconduct finding, as per sample policy language provided below.

Personnel found to have violated this policy will be held accountable and may be subject to discipline, up to and including dismissal or termination, in accordance with the principles set forth in this Policy.

- b. Organizations should preference the use of impact assessments to determine their disciplinary response to employee misconduct, as inclusive of the following:
  1. **Respondent's and Complainant's Social Location.** Assessments should identify the existence of any power imbalances that may heighten the harmful impact of an offender's wrongful conduct directed towards individuals in more vulnerable positions. Not all employees experience harm in the same way due to their individual backgrounds, identities, position, and responsibilities within an organization. For example, acts of misconduct by a manager against a reporting employee are particularly egregious. The authority of senior employees, whether actual or perceived, is such that lower-level employees are generally hostages to impermissible managerial conduct:
    - i. The confidence in complaint resolution processes to report policy misconduct—when the offender is responsible for enforcing said policies—is low.
    - ii. The fear of reprisal is high.
    - iii. The likelihood of misconduct occurring frequently or for an extended period is high.
    - iv. The odds that other employees are also held hostage to similar behaviors is high.

**The greater the power imbalance or seniority level of the offender, the greater the disciplinary consequence.**

2. **Impact on Infraction:** When assessing employee misconduct, organizations should also aim to account for how an employee's actions or behavior has affected the person wronged as well as the overall work environment, through the lens of intersectionality. Intersectionality is the idea that individuals have layered identities, such as race, gender, sexual orientation, disability, and socioeconomic status, all of which influence their experiences and vulnerabilities.

For example, an employee may be an “equal opportunity” harasser. This means they mistreat all employees alike. However, statements such as “you’re nothing!” “How’d you get this job anyway?” “Do you even know what you’re doing?” may be experienced differently by a Black woman than a white male.

Due to histories of discrimination that have put into question the humanity of Black people; challenged the ability of Black persons to reason or possess an intellect; reduced Black peoples to mere tools of production; and excluded Black peoples from entire spheres of social, political and economic influence—statements such as “you’re nothing!” are more egregious when directed towards persons who’ve been treated as if they were nothing throughout history.

**The greater the harmful impact, the greater the disciplinary consequence.**

3. **Past Behavior:** Assessments should identify an employee's past disciplinary history. Consistent patterns of misconduct are indicators of behavioral irreformability and should be subject to greater scrutiny than isolated incidents.

**The more extensive the history of past misconduct, the greater the disciplinary consequence for present, continuing misconduct.**

4. **Offender’s Explanation:** Assessments should consider an offender’s response to their misconduct, including their willingness to acknowledge their actions and make efforts to reconcile. Organizations should be aware that statements such as “I did not know,” “I did not mean to,” “I intended to do this, not that,” or “I was instructed to do it” are not valid defenses to a Respectful Workplace Policy violation. However, these statements should be separately evaluated when reviewing the adequacy of organizational measures aimed at fostering a human-rights affirming workplace culture.

**The less remorseful an offender is, the more likely the offender will engage in similar harmful behaviors in the future, therefore, the greater the disciplinary consequence.**

5. **Wronged Employee’s Reconciliation Needs.** Impact assessments should consider the needs of wronged employees. Any resolution developed by an organization, in response to a Respectful Workplace Policy violation, must restore the wronged employee’s sense of safety, justice, belonging, and support within the workplace.

6. **Pervasiveness of Similar Acts of Harm Within Organizational Culture.** When assessing employee misconduct, it may be helpful for organizations to

also consider how their workplace culture may have contributed to the harm perpetrated or may have enabled the harmful action to occur. Addressing systemic issues in workplace culture and organizational design is essential to ensuring long-term harm prevention.

- c. As it relates to recommended discipline, impact assessments should ensure that any disciplinary measure identified:
  - 1. Aligns with established company policies, procedures, and guidelines.
  - 2. Is consistent with actions taken in similar situations involving other employees.
  - 3. Complies with local employment laws and regulations.
  - 4. Addresses the health, safety, and reconciliation needs of the harmed employee(s).

#### **IX. Remedies to Aggrieved Party**

- a. Organizations should consider providing equitable remedies to address the injury suffered by persons' whose Respectful Workplace Policy rights have been violated. Potential remedies may include:
  - 1. Providing a formal apology or acknowledgment, recognizing the wrongdoing, and expressing regret for any distress caused.
  - 2. In cases where a job opportunity or promotion was unjustly denied due to the violation, offering the position or promotion to the aggrieved individual.
  - 3. Providing restitution for lost wages, to include the use or exhaustion of employment benefits such as leave, incurred as a direct consequence of the violation.
  - 4. Expunging unfavorable work reviews or comments, from the aggrieved party's personnel file, as stemming from the offender's actions.
  - 5. Providing substantive, meaningful access to counseling services or support groups to help address the emotional and psychological impact of the violation.
  - 6. Ensuring the aggrieved person is protected from any form of retaliation for filing the complaint or participating in the investigation.
  - 7. Mandating training sessions on relevant topics for both the offender and relevant personnel within the organization.
  - 8. Conducting a review of the Respectful Workplace Policy to identify areas for improvement and making necessary revisions to prevent future violations.
  - 9. Implementing a system for ongoing monitoring of workplace behavior and requiring regular reports to ensure a respectful and inclusive environment.

This is not an exhaustive list.

#### **X. Measurement and Review**

- a. Organizations should consider requiring workplace harassment and discrimination complaint resolution data and metrics to be collected, audited, and reviewed

annually. For further guidance on this recommendation, organizations are encouraged to consult the *Equal Employment Opportunity Policy Guidance*.

## **Part IV**

### **Anti-Discrimination and Harassment Policy**

## RECRUITMENT AND TALENT ACQUISITION POLICY GUIDANCE

### I. Statement of Policy Purpose

- a A statement of purpose is a crucial component of any policy document. It articulates a policy's objectives, providing a concise expression of what a policy seeks to achieve. In the event of ambiguity or uncertainty, a clear statement of purpose provides readers with the interpretive guidance necessary to construe policy language in a manner that effectuates a policy's spirit or intent.
- b In developing a policy specific to talent acquisition, organizations should aim to cultivate and maintain a representative workforce. A representative workforce exists when the distribution of employees across demographic markers such as race, gender, age, ethnicity, sexual orientation, and disability status is proportionate to or reflects the labour market availability of these statutorily identified group characteristics.
- c Cultivating a representative workforce representative requires organization to:
  - i Develop barrier-free recruitment, selection, and advancement processes.
  - ii Actively attract, hire, retain, develop and promote the participation of candidates from underrepresented or historically marginalized backgrounds.
  - iii Cultivate and maintain an inclusive work environment where all employees feel valued and respected. For guidance on this front, organizations may refer to the *Inclusive Workplace Policy Guidance* and the *Respectful Workplace Policy Guidance*.
- d Organizations pursuing reconciliation may also wish to affirmatively respond to the Truth and Reconciliation Commission's ("TRC") Calls to Action, particularly Recommendation 92, which contains instructions specific to the employment context. This Recommendation further calls upon employers to adopt the *United Nations Declaration on the Rights of Indigenous Peoples* ("UNDRIP"). Read together, these legal and/or human rights texts petition the following as it pertains to Indigenous employment equity rights:
  - i UNDRIP Article 21: "Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of

education, employment, vocational training and retraining, housing, sanitation, health and social security.”<sup>17</sup>

- ii TRC Calls to Action, Recommendation 92: “Ensure that Aboriginal peoples have equitable access to jobs, training, and education opportunities in the corporate sector.”<sup>18</sup>

Sample policy language has been provided for reference below.

1. [Organization] recognizes that diversity is crucial to the continued adaptability, growth, and effectiveness of its operations. [Organization] commits itself to eliminating systemic barriers to employment, and to facilitating the full and equal participation of all within the workplace.
2. By diversity, [Organization] expressly references the multifaceted ways in which all individuals differ given an infinite range of variation in human attributes and characteristics. By employment equity, [Organization] pays special or acute attention to those under-represented diversity characteristics which —due to past discrimination and the continuing effects thereof—continue to experience barriers to equal employment opportunity.
3. [Organization] specifically acknowledges the historical impact of colonization in Canada and its responsibility to address the ongoing employment equity deficits experienced by Indigenous Peoples. Organization commits itself to developing special employment programs to address disadvantages faced by equity-denied groups, for as long as necessary to achieve substantive equality, as per [identify] provincial legislation and as per the Truth and Reconciliation Commission’s *Calls to Action*.

## II. Application and Scope

- a An organization’s recruitment policy should consider identifying the scope of persons to whom its policy applies. “Application and scope” language is particularly useful when an organization seeks to vest certain substantive rights and procedural entitlements to persons not otherwise employed by or possessing a contractual relationship with the organization in question. For example, candidates for employment.

## III. Governing Legislation, Regulations, and Other Collective Agreements

- a Given the existence of laws requiring non-discriminatory, accessible employment processes—organizations should consider identifying the provincial legislations, to which their hiring processes are subject.

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<sup>17</sup> “Declaration on the Rights of Indigenous People,” (United Nations General Assembly, 2007). <https://social.desa.un.org/issues/indigenous-peoples/united-nations-declaration-on-the-rights-of-indigenous-peoples>

<sup>18</sup> “Truth and Reconciliation Commission of Canada: Calls to Action,” (Ottawa: Truth and Reconciliation Commission of Canada, 2012). <https://www.rcaanc-cirnac.gc.ca/eng/1450124405592/1529106060525#chp2>

- b Organizations operating within a unionized work environment should further consider harmonizing recruitment policy provisions with applicable collective agreement provisions. Sample language has been included for organizational reference below:

This Policy complies with the mandates of [identify applicable provincial human rights legislation]. It provides for the equitable consideration, employment, and advancement of all qualified persons, on the basis of merit, without regard to or discrimination on the basis of any statutorily protected characteristic.

This Policy further establishes special employment programs, as authorized by Section [specify sub-provision] of [identify legislation], to address the effects of past discrimination and achieve substantive equality for underrepresented, statutorily designated groups.

This Policy must be read and interpreted in harmony with the terms of any collective agreement binding upon [Organization].

#### IV. Definitions to Support Policy Interpretation

- a A “definitions’ sub-provision is integral to any policy document. It ensures a shared understanding of key terms that are critical to the proper comprehension and correct application of a policy’s terms. In defining terms specific to this policy, organizations may consider drawing from, adding to, or adopting the following sample “Definitions” policy provision.

**Bona Fide Occupational Requirement (BFOR)**

Refers to a job duty or standard that is integral to carrying out the requirements of a particular position within a workplace.

**Non-Traditional Professional Background**

Refers to individuals with career histories or experiences that deviate from conventional or typical paths in a particular field or industry. These backgrounds may involve unconventional educational trajectories, career shifts, or experiences that are less commonly associated with a particular profession or role. Non-traditional professionals often bring diverse skills, perspectives, and experiences to their roles, which can be valuable in promoting innovation and problem-solving

**IDEA Competency**

Refers to the knowledge, skills, and attitudes necessary to understand the historical and systemic aspects of discrimination; to recognize bias as well as barriers to access or inclusion; to develop cultural sensitivity; to work effectively

with stakeholders from diverse backgrounds; and to actively contribute to an inclusive and equitable work environment.

**Special Employment Program**

Refers to programs that are designed to improve equality of opportunity and eliminate discriminatory barriers to access for statutorily designated groups. Special programs are protected under both federal and provincial human rights legislation.

Organizations are encouraged to reference the specific legislations to which they are subject for further clarifying guidance.

**Substantive Equality**

Refers to the understanding and/or acknowledgment that individuals or groups start from different positions of privilege or disadvantage due to historical, systemic, or structural factors such as discrimination, inequality, inaccessibility, and socioeconomic disparities. Substantive equality involves the use of affirmative action programs, targeted policies, and interventions designed to redress historical injustices and level the playing field.

**Underrepresentation**

Refers to the status or condition of having a significantly lower percentage of equity denied persons in a particular occupational group than would reasonably be expected in comparison to their known availability in the Canadian workforce.

**V. Rights and Entitlements**

Vesting candidates with rights to fair treatment during the hiring process facilitates legal compliance, enhances an organization's reputation in the market, and helps attract a diverse pool of candidates. Organizations may refer to the sample language below.

1. Candidates for employment, incumbent employees, and current employees must be treated with dignity and respect and are further entitled to accessible and equitable hiring processes.
2. All decisions related to recruitment, including the formulation and execution of employment agreements, must adhere to and be guided by the following rights and entitlements:
  - a. The right to fair compensation commensurate with the qualifications, experience, and the responsibilities of the position.



- b. The right to non-precarious employment that provides a sense of economic stability and job security.
- c. The right to comprehensive leave, inclusive health and other benefits.
- d. The right to professional development and a clear path to career progression.
- e. The right to flexibility and a work environment that supports work-life balance.

## VI. Recruitment Procedures

It is imperative that IDEA principles be the basis for all talent acquisition processes. To prevent unconscious bias, prejudice, or discrimination in recruitment, organizations should adhere to a clear and concise set of procedures and processes. Here are twelve (12) provisions to help in your recruitment procedures:

1. Staff Requisition Forms
2. Hiring Team Composition
3. Hiring Team Conduct
4. Job Description Design
5. Job Advertisement Design
6. Job Advertisement Publication
7. Candidate Application Screening
8. Interview Design
9. Candidate Selection and Employment Offer
10. Onboarding, Mentorship and Employee Retaining Programs
11. Programs To Address Pre-Employment Conditions Affecting Equal Employment Opportunity
12. Equity Audit

The following provisions are recommendations only. They are based on best practices and are not mandatory or legislated unless explicitly indicated as such.

### SCHEDULE 1: STAFF REQUISITION FORMS

- a. Organizations should consider vesting managers with the following duties:
  1. The duty to observe working conditions and to direct an organization's workforce in a manner that supports employee health and performance.
  2. The duty to ensure employees have the resources and supports needed to complete designated tasks.
  3. The duty to timely request staffing support through completion of an organization's designated Staff Requisition Form. This duty serves two purposes: (i) It mitigates the risk of employee burnout, decreased productivity, and increased absenteeism; (ii) it prevents the loss of talent.

- b. Given the general length of time it takes to initiate and conclude hiring processes; and the recommendation that incumbent employees not be tasked with duties until onboarding training is complete—staffing requests should be made proactively in response to a department's anticipated needs.
- c. Anticipating staffing needs is integral to responsible workforce management. Strategic workforce planning helps to ensure there is sufficient talent in place to achieve long-term organizational objectives. Examples of appropriate times to submit a Staff Requisition Form include:
  - 1. Upon anticipation of seasonal fluctuations in demand.
  - 2. Upon commitment to a special project that will require the use of temporary contract workers with specialized skills not currently present within an organization.
  - 3. Upon knowledge of organizational intent to expand operations.
  - 4. Upon notice of the promotion, resignation, retirement or termination of an employee.
  - 5. Upon notice of increased departmental project commitments or heightened or accelerated deadlines.
  - 6. In response to changes in technology and industry trends that necessitate the hiring of employees with expertise in emerging areas.
  - 7. In times of high employee turnover.
  - 8. In instances of unsustainable increases in workload whereby employees become unable to fulfill their work duties due to insufficient resources, time, and other support.
- d. To ensure staffing requests sufficiently address resource gaps, managers should consult with employees to co-identify tasks, duties, and desired skills and qualifications of the new role. Collaboratively identifying tasks and duties ensures that any new role identified aligns more closely with the actual needs and challenges faced by employees. This can lead to a better match between the role and the organization's needs and objectives.
- e. In addition to tasks and duties—it may also be helpful for a Staff Requisition Form to include information such as the following:
  - 1. The proposed job title.
  - 2. Proposed job grade/salary range
  - 3. A working job description.
  - 4. Desired skills or qualifications.
  - 5. The department and manager position title.
  - 6. The reason for the vacancy (e.g., new position, resignation, termination, etc.).
  - 7. Position funding and duration of financing (e.g., permanent, project funded, etc).
  - 8. Position type (e.g., full-time, part-time, contract)
- f. Organizations should consider requiring their designated Human Resource Office(r) to promptly respond to staffing requests. It may be helpful for organizations to identify a process by which to prioritize, queue or triage staffing requests based on the urgent nature (or lack thereof) in which a request is made.

- g. If a Staff Requisition Form is denied due to organizational financial constraints, competing operational needs, long term sustainability concerns, and the like, organizations may wish to consider adopting the following measures:
  - 1. Disclosing to the requesting manager the ground(s) pursuant to which the request was denied.
  - 2. Providing a forecast as to the earliest possible date the identified staffing need may be fulfilled, where feasible or practical.
  - 3. Co-developing with management an interim plan to support the resource needs of a department. This may include:
    - a. Reallocating existing personnel to address immediate capacity issues.
    - b. Training employees to acquire the skills needed to meet departmental demands.
    - c. Deferring deadlines or reducing the number of project deliverables.
    - d. Assessing the equitable nature of existing employee work distribution arrangements in consideration of the fact that employees should only be required to perform tasks within their contracted competencies, and compensation rate, as set forth in their employment contract.

## SCHEDULE 2: HIRING TEAM COMPOSITION

- a. Organizations should consider prioritizing the use of diverse hiring teams or panels to mitigate against bias. For purposes of this Policy Guidance, diversity includes demographic diversity (race, gender, disability, etc.). It also includes educational and experiential diversity, with a particular emphasis on the distinct viewpoints, skills, and cultural insights of employees from non-traditional professional backgrounds.
- b. Organizations lacking the internal diversity necessary to adequately staff hiring panels, may wish to consider developing a list of external community partners, with IDEA expertise, who may perform this role, as inclusive of honorarium or other labour costs.
- c. Organizations should not, in attempting to achieve workforce representation burden equity-denied, under-represented employees, with the responsibility of advancing equity and inclusion efforts. This is neither fair nor sustainable.

### DID YOU KNOW?

“Diversity tax” describes the burden placed on equity denied individuals to participate in or lead organizational IDEA initiatives, educate their colleagues on IDEA topics, or engage in other forms of IDEA related labour in addition to or beyond their designated work responsibilities. A simplified illustration of the unjust nature of this tax is delineated in the chart below.

| Equity Denied Employees   | Employees of Dominant Backgrounds/Privileged Characteristics                      |
|---|---|
| <ol style="list-style-type: none"> <li>1. Perform work related duties.</li> <li>2. Experience discrimination</li> <li>3. Mitigate against known effects of discrimination (increased health morbidities, reduced quality of life, disparities in compensation, and decreased access to economic mobility).</li> <li>4. Advocate against discrimination.</li> <li>5. Educate others on the harms of discrimination.</li> </ol> | <ol style="list-style-type: none"> <li>1. Perform work related duties.</li> </ol> |

- d. It is advisable for organizations to temporarily suspend or adjust the regular job responsibilities of employees charged with staffing a hiring committee. To make informed and fair hiring decisions, panelists must be actively engaged in the recruitment process and not overwhelmed by competing job responsibilities. Suspending regular duties allows panelists to:
1. Focus on to thoroughly assessing and evaluating a candidate’s qualifications, conducting interviews, and deliberating on hiring decisions.
  2. Fully engage in training sessions and become more knowledgeable about IDEA principles.
- e. Members of hiring teams should aim to, at minimum, include:
1. The manager(s) overseeing the position.
  2. An employee familiar with the duties of the position seeking to be staffed.
- f. Organizations should consider designating a human resource officer to chair or preside over hiring teams established. The responsibilities of this officer, should include:
1. Ensure all hiring processes comply with an organization’s *Talent Acquisition and Recruitment Policy, Equal Employment Opportunity Policy, and other relevant policies.*
  2. Ensure records pertaining to all hiring processes are comprehensively documented and stored in accordance with an organization’s data retention policy.
  3. Ensure hiring panelists receive comprehensive and robust training as to the following:
    - a. Training on an organization’s *Talent Acquisition and Recruitment Policy, Equal Employment Opportunity Policy, Pay Transparency and Pay Equity, and other equity policies.*
    - b. Training on how to identify, measure, and mitigate against bias in recruitment processes.
    - c. Training on how to identify, recognize and respect neurodiversity in communication styles. This includes differences in how candidates receive information, process information, and communicate their understanding of or their response to said information.
    - d. Training on how to identify, recognize and respect cultural differences in communication styles and social norms.
    - e. Any other relevant equity training.

- 1 Monitor for bias in hiring team assessment and evaluation of candidates for employment and engage in mitigation strategies as necessary.
- 2 Chair hiring team meetings, direct conversations and monitor for equitable participation.
- 3 Record the minutes of committee meetings and of all interview processes.
- 4 Ensure the use of appropriate forms, rubrics, and other documents.

### SCHEDULE 3: HIRING TEAM CONDUCT

- a. Hiring panels are only effective to the extent that they encourage diverse perspectives. Organizations should monitor against the presence of echo chambers within hiring teams. To counteract against groupthink, it is essential that practices be put in place to encourage open and diverse discussions as well as value evidence-based decision-making.
- b. Organizations should establish an equitable system for communication and decision-making to govern hiring team processes such as a code of conduct. Sample language is provided for reference below.

The following guidelines support structured, respectful, and productive group decision-making processes; and foster an environment where ideas can be openly shared, conflicts can be managed constructively, and consensus can be reached efficiently.

1. An organization's designated Chair (or human resource officer) must convene and preside over inclusive, equitable, and respectful hiring committee meetings and other related processes. This includes the following:
  - a. Establishing ground rules or norms for behavior and communication within the group.
  - b. Employing conflict resolution techniques to help members work through differences constructively.
  - c. Ensuring each hiring team member contributes to decision-making processes.
  - d. Balancing power dynamics within hiring teams to prevent dominant voices from monopolizing decision-making processes.
  - e. Providing space for marginalized, quieter, or less assertive voices to be heard.

- c. Organizations should further consider obliging hiring team members to operate under strict orders of confidentiality. Under such an order, information received during hiring processes are prohibited from being disclosed.

## SCHEDULE 4: JOB DESCRIPTION DESIGN

- I. Identifying Core Responsibilities or Performance Functions of Job Role
  - a. To design an accurate job description, managers and human resource officer(s) alike should consider conferring with relevant employees. Collaborative job description development is beneficial for several reasons. Employees who are already performing the same or similar role or who will closely interact with the new hire can provide valuable insights into the daily realities of the job. This includes:
    1. Ensuring proposed job descriptions accurately reflect the tasks, responsibilities, and expectations associated with a role or position.
    2. Helping human resource officials distinguish between essential duties and secondary responsibilities, ensuring that job description prioritizes tasks (and therefore competencies) of greatest importance.
    3. Clarifying how a particular position fits within the broader workflow of an organization and how it interacts with other team members or departments.
    4. Providing valuable input on whether the described duties are feasible or achievable within a standard workday or week.
    5. Identifying what aspects of the job role have evolved over time owing to changes in technology, processes, or organizational needs.
  - b. It is not enough that job descriptions be accurate and clearly defined. Job descriptions should also aim to be feasible and achievable. Achievable job descriptions are capable of being performed by an incumbent employee within the confines of their designated work hours or work week, as indicated within an organization's Staff Requisition Form (full-time permanent, part-time, contract, etc.).
  - c. To create an achievable job description, organizations should consider the following:
    1. Prohibiting the use of job descriptions that require candidates to perform the responsibilities of multiple job positions in one role. This is often referred to as "job multitasking" or "role overload."
    2. Prohibiting the design of job roles which would require a candidate to constantly work at an accelerated pace to maintain minimum levels of task achievement. These roles are characterized by tight deadlines, high production quotas, and/or a continuous influx of tasks, that leave employees with little to no room for respite.
    3. Prohibiting the staffing of under-resourced roles. Job descriptions should be reflective of the resources available and should not expect employees to perform duties without the necessary or sufficient resources (teammates, finances, training, etc.).
  - d. Achievable job descriptions coupled with adequate resource allocation are essential components of an organization's talent attraction and retention objectives. Candidates are more likely to apply to and continue their employment within an organization that supports and equips them to do their jobs effectively.

## II. Identifying Essential Skills and/or Qualifications Integral to Role Performance

- a. Job descriptions should list only those skills and qualifications necessary to competently perform an identified job role. Any additional skill or qualification not essential to job performance, but useful in excelling in or mastering a role, given the context within which an organization operates, may be separately identified as a non-essential asset.

For example: It is essential for a candidate, in a talent acquisition role, to have certain competencies with respect to workforce planning and recruitment.

It may be an asset for candidates to have experience in a particular industry—such as an “all hands-on deck” “multiple hats” work environment, most common in startups, small businesses, and non-profit organizations.

However, in no way should lack of an asset, disqualify a candidate who has the essential skills necessary to competently perform the role listed.

- b. Organizations that prioritize and integrate IDEA into every aspect of their operations, should consider requiring candidates to demonstrate a minimum level of IDEA competency or the ability to acquire IDEA competency.
- c. In further identifying essential requirements for competent role performance, organizations should consider prohibiting the use of arbitrary job requirements. Arbitrary job requirements are qualifications identified by an employer that are not reasonably related to the duties or responsibilities of the position being posted. These requirements unjustifiably limit the pool of qualified candidates; perpetuate bias and discrimination; and hinder diversity and inclusion efforts.
- d. Examples of arbitrary requirements may include, but are not limited to:
  1. Requirements that candidates possess specific licenses, degrees, or certifications not mandated by law to perform the listed job role.
  2. Requirements that candidates possess unrealistic, unnecessarily high, or minimal years of experience that are arbitrary; and that otherwise exceed what is genuinely necessary to perform a role effectively.
  3. Requirements that candidates possess prior experience in a particular industry or role which, due to past discrimination, is largely held or occupied by employees from dominant groups.
  4. Requirements that candidates be of a certain age—e.g. job descriptions that preference candidates, based on age, through use of terms such as “recent graduate,” “digital native,” and other phrases meant to imply or suggest youth.

5. Requirements that candidates possess certain language proficiency levels or certain physical abilities not related to a job's core functions; and not otherwise necessary to competently perform a role.
  6. Requirements that candidates own or have access to vehicle; and are able to meet extensive travel requirements when travel is infrequent or not central to the role.
  7. Requirements that candidates live within a certain commutable distance of an organization's office or work in-office, when a candidate's role can be performed remotely through use of cloud-based technologies.
- e. Arbitrary requirements that are not reasonably linked to a bona fide occupational requirement often unjustifiably exclude equity-denied candidates from employment qualification. Organizations are encouraged, therefore, to think critically regarding the extent to which an identified requirement is truly "essential." Questions to consider in identifying the essential nature of any proposed requirement includes the following:

1. Is this qualification the only pathway or means by which a candidate may have experience or skills relevant to this position? Or are there alternative skills or experiences that could also be relevant and valuable?
2. Would removing this requirement prevent candidates from being able to perform the duties and responsibilities required for this role?
3. Is there a potential bias or discrimination inherent in this qualification that might disproportionately impact candidates from diverse backgrounds?
4. Is there flexibility to consider candidates who may not meet this qualification but possess other exceptional skills or experiences that could contribute positively to the role?
5. Can this requirement be learned on the job?

- f. Organizations should further consider permitting candidates to demonstrate, through their cover letter, work sample, etc., their ability to perform the role identified, through skills or qualifications gained or acquired through alternative means.
- g. Candidate submissions should be thoroughly reviewed by an organization's Human Resource Office(r), to re-evaluate an organization's understanding of the essential—versus arbitrary—nature of the minimum job qualifications previously identified.
- h. If inclusion is the aim, it may be helpful for organizations to identify designated requirements as "skills and experiences helpful to successful role performance." Organizations should use term such as "requirements," with reservation.



## DID YOU KNOW?

Language matters. It determines who, in a broad audience of readers, see themselves reflected in a job description's call for applicants. According to Mohr (2014)<sup>19</sup>, female applicants who do not meet 100% of job description criteria will refrain from applying to a role while men are more likely to apply anyway. This suggests that women are more likely to understand qualifications as requirements, while men are more likely to understand them as goals or targets.

Other equity considerations inform this statistical result. Women have historically only been able to break into historically white-male dominated labour markets upon demonstration of exceptional skills, degrees, and certifications.

Black candidates refer to this phenomenon as the "Black tax." This term describes the extent to which Black candidates have historically been required to significantly exceed standard qualifications for a role to compete on an equal footing with non-racialized individuals who possess lesser qualifications.

This phenomenon, as experienced across equity denied demographics, has been referred to as the "prove it again" bias. Per this bias, "[w]hite men from college-educated families tend to be judged on potential, while groups less privileged by race, class, or gender are judged on performance."<sup>20 21</sup>

The effects of these histories of exclusion are such that, equity denied candidates are less likely to apply for a role if they cannot meet or exceed all required expectations. To attract a diverse range of candidate, terms such as "requirements" on job advertisements, therefore, should be used with care.

### III. Identifying Inclusive Language in Job Description

- a. Organizations should use inclusive language in all job descriptions. Terms or expressions that discourage applications from persons with equity-denied characteristics are prohibited. Examples include:
  1. Use of gender specific pronouns such as he or she instead of they.
  2. Use of gender specific role designations such as waitress instead of waiter.
  3. Use of arbitrary language such as "digital native," "recent graduate," "native speaker," "available at any time," "must be available to travel," when not a bona fide occupational requirement, as a proxy to exclude candidates on the basis of a protected characteristic.

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<sup>19</sup> T. S. Mohr, "Why Women Don't Apply for Jobs Unless They're 100% Qualified," (Harvard Business Review, (August 25, 2014). <https://hbr.org/2014/08/why-women-dont-apply-for-jobs-unless-theyre-100-qualified>

<sup>20</sup> Joan C. Williams, "Bias Interrupted : Creating Inclusion for Real and for Good," (Harvard Business Review Press, 2021).

<sup>21</sup> F. Henry, E. Dua, C. James, A. Kobayashi, et. al., "The Equity Myth: Racialization and Indigeneity at Canadian Universities," (Vancouver: UBC Press, 2017).

4. Use of arbitrary financial prerequisites such as “candidates must own their own transportation” or “must live within a certain distance of a specific location.”

NOTE: While social condition, in the form of economic disadvantage (e.g., level or source of income; occupation or lack of employment, housing status, level of education etc.), is not widely recognized as a protected characteristic in anti-discrimination laws—organizations are encouraged to adopt a compliance plus approach to correct for this legislative equity deficit. Restrictions to employment opportunity based on an applicant’s current or pre-existing access to financial resources disproportionately impact equity-denied groups who face the greatest socioeconomic challenges.<sup>22</sup>

5. Use of industry-specific jargon or acronyms that might exclude candidates from different backgrounds or industries, with transferable skills.
6. This is not an exhaustive list.

## SCHEDULE 5: JOB ADVERTISEMENT DESIGN

### I. Minimum Job Advertisement Requirements

- a. Job advertisements should include the following information:
  1. Application instructions
  2. Necessary application documents such as resume, cover letter, and/or references.
  3. Any employment information, such as:
    - i. The posted role’s salary range and the organization’s pay equity framework.
    - ii. Leave entitlements and benefits coverage as inclusive of when benefits vest (upon hire, after completion of probationary term, etc.).
    - iii. The availability of flexible work arrangements.
    - iv. The availability of accommodations.
- b. Inclusive job advertisements should also include language:
  1. Encouraging equity-denied and non-traditional candidates to apply.
  2. Recognizing the legitimate impact that leaves (e.g., parental leave, medical leave, short and long-term disability related leave) can have on a candidate’s employment history, and that breaks in employment history will not negatively impact a candidate’s assessment.

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<sup>22</sup> Social condition or disadvantage is a protected class under the Charter of Human Rights and Freedoms (Quebec); Human Rights Act (New Brunswick); the Human Rights Code (Manitoba); and the Human Rights Act (Northwest Territories).

3. A statement describing organization's inclusive workplace culture, to include measurable evidence of the same such as initiatives, awards, or statistics related to diversity and inclusion.

## II. Voluntary Applicant Equity Data

- a. Job advertisements should further consider collecting applicant equity data information in keeping with the *Ethical Collection of Equity Data Policy Guidance*. Generally, organizations are prohibited from considering information specific to a candidate's protected characteristics in the making of any employment decision. This prohibition, however, does not preclude organizations from gathering aggregate statistical data to assess the need for targeted recruitment and other equity measures. It also does not preclude organizations from preferencing the hiring of equity-denied candidates pursuant to special employment programs meant to correct conditions of present disadvantage arising from past discrimination.
- b. Requesting equity data from applicants in an application process should always be expressly voluntary. Organizations should advise candidates that declining to provide voluntary personal data will not negatively affect their assessment. Sample language is included for reference purpose below:

Your participation in providing equity-related information, if you choose to do so, will contribute to our efforts to recruit a diverse, representative workforce. **Rest assured that this data will be treated with the utmost confidentiality and will not be used to influence any hiring decisions.** Your application will be evaluated based solely on your qualifications, skills, and experiences, as relevant to the position. We ensure this by keeping data anonymized, separate and apart from all other recruitment data, and not accessible to any employee involved in any recruitment process.

- c. Organizations with special employment programs should consider including language to encourage equity-denied candidates to self-identify and receive the benefits and supports of such programs. Sample language is included for reference below.

Inclusion, diversity, equity, and accessibility is at the heart of our recruitment process.

We are proud participants of the 50/30 Challenge. This Challenge calls for senior management and executive representation reflective of the labour force diversity existing within and across Canada. That is 50% representation of women and gender minority groups; and 30% representation of Indigenous Peoples as well as racialized persons, 2SLGBTQI+ individuals, and persons with disabilities.

We strongly encourage individuals from the above identified backgrounds to apply for senior, board, and other executive roles at [Organization].

## SCHEDULE 6: JOB ADVERTISEMENT PUBLICATION

- a. Organizations should consider prioritizing the promotion and talent development of internal employees prior to engaging in external recruitment. If, in advertising a vacant position internally, it is discovered that:

1. The talent desired does not exist within the organization, or
2. The costs and/or length of time required to upskill an employee to develop the necessary talent is unreasonable,

Then organizations should consider extending their recruitment efforts to external candidates.

- b. External job advertisements should be circulated widely, to ensure visibility by the broadest range of diverse, candidates as possible, with an emphasis on job boards curated to support the equal employment opportunity needs of equity-denied candidates. For example, organizations may consider advertising vacancies on job boards targeted towards Indigenous employment such as the *Aboriginal Job Board* or by sharing job postings with local Indigenous organizations.

- c. Organizations should consider mandating Human Resource Office(r) to:

1. Maintaining a living document of all known job ad sites, accessible by hiring teams, for ease of reference.
2. Maintaining a clear, candidate applicant tracking system.
3. Ensuring the application process is as accessible, streamlined, user-friendly and involves as few steps as possible.

- d. To the extent possible, organizations should consider:

1. Prioritizing the use of simple application forms that requests essential information only; and that does not require candidates to manually input information already provided in a resume.
2. Not requesting supporting documentation such as reference letters, transcripts, or portfolios, early on in the application process as this can be burdensome and intimidating for applicants.
3. Using assessment tests sparingly and only to the extent needed to measure skills and competencies needed for the role.
4. Compensating candidates for any time spent completing a test, assessment, or work simulation.
5. Prohibiting the use of inaccessible application platforms.
6. Ensuring any application portal used is mobile-friendly.<sup>23</sup>

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<sup>23</sup> Most applications today are submitted using mobile devices as opposed to desktop or laptop computers. See Ryan Golden, "Mobile job applications surpassed desktop in 2020, report says," (HR Dive, March 1, 2021). <https://www.hrdiver.com/news/mobile-job-applications-surpassed-desktop-in-2020-report-says/595891/>

7. Limiting pre-screening questions to only the most critical qualifications and competencies needed for the role and postponing detailed questionnaires until later in the process.
- e. External job ads should be posted for a reasonable period of time. If an advertised role fails to attract a sufficient quantity of diverse, qualified candidates within the posted period, the hiring team should review for the following then repost:
1. The job description was too broad or otherwise not feasible or achievable, without significant cost to candidate health, safety, and work-life balance flexibility needs.
  2. The job requirements and qualifications were too strict, specific, and/or arbitrary, thereby, unnecessarily limiting the pool of qualified candidates.
  3. The language used in the job description was otherwise exclusionary.
  4. The proposed salary band or range was not competitive given the identified job responsibilities listed.
  5. The proposed salary band or range was not competitive given costs of living and other living wage requirements.
  6. The job requirements were not flexible enough to attract hybrid/remote workers.
  7. The application process was confusing or involved too many steps.
  8. The job advertisement was not distributed widely or long enough.

## SCHEDULE 7: CANDIDATE APPLICATION SCREENING

### I. Applicant Tracking System

- a. Organizations are encouraged to develop an applicant tracking system to store applicant profiles, resumes, cover letters, rubrics, interview transcripts, diversity-related data, and other relevant data securely.
- b. Demographic data must be handled with great care.
- c. Aggregate data, as defined in the *Ethical Collection of Equity Data Policy Guidance*, must be anonymized; must be kept separate and apart from all other recruitment data; and must not be made accessible to any employee involved in any recruitment process.
- d. Remedial employment program data, as also defined in the *Ethical Collection of Equity Data Policy Guidance*, must only be collected as per terms of the provincial human rights legislation to which an organization is subject.
  1. Strict data security measures must be implemented to protect applicant information as per applicable data protection legislation; and applicants should be advised of these protocols, to applicant information is recorded, collected and/or transcribed.
  2. Access to recruitment documents and information must be limited to personnel involved in hiring processes alone, with the exception of third-party auditing entities.
  3. All personnel involved in hiring processes must be subject to strict orders of confidentiality.

## II. Applicant Screening Rubric

- a. Organizations should assess candidate eligibility or qualification for a role by use of a screening rubric. The purpose of a screening rubric is to provide clear, standardized criteria against which all candidates should be evaluated.
- b. Each member of the hiring team should conduct candidate evaluations independent of each other to mitigate against groupthink or conformity bias—a phenomenon where non-dominant members of a group may sacrifice their beliefs and opinions and adopt those of a dominant member to achieve a group consensus. Assessments can be later compared and defended at time of shortlisting.
- c. Hiring team members should conduct an initial screening of candidates as either qualified or unqualified. Qualified candidates possess the skills and experience necessary to effectively perform most of the duties required in a role. Candidates who—with proper training, mentorship, and resources—demonstrate the ability to perform additional job duties over time should not be considered unqualified during initial screening.
- d. Hiring teams should keep the evaluation process as objective as possible by:
  1. Comparing candidates to the job description, not to each other.
  2. Engaging in consistent and deliberate anti-bias exercises and discussions.
  3. Avoiding ascribing value-based assessments to candidates by use of terms such as “good” or “bad.”
  4. Requiring hiring team members to justify their evaluations of candidates by way of evidence or data, not supposition or bias.
- e. Hiring team members should, upon completion of their individual screening assessments, compare notes and focus on “interrogating” each other’s’ choices for shortlisting by asking critical questions, with the aim of identifying and mitigating against bias.
- f. If the shortlist of screened candidates does not reflect the diversity of the initial applicant pool, hiring teams should consider re-reviewing screening decision-making processes for bias. The final shortlist of candidates should be agreed upon unanimously by all members of the hiring team before extending offers for interview.

## SCHEDULE 8: INTERVIEW DESIGN

### I. Interview Questions

- a. Interview questions must:
  1. Be objective and clear.
  2. Be standardized for all applicants.
  3. Relate to the skills, abilities, and experiences that the advertised role requires.
  4. Define essential terms to ensure a common understanding.
- b. Behavioral interview questions are generally preferred. Except that to remedy the effects of past barriers to employment opportunity—applicants lacking experience

must be given an opportunity to demonstrate their growth potential through hypothetical questions. To meet the accessibility needs of neuro-divergent applicants, hypothetical interview questions must be concrete, specific, and provided to applicants in advance.

- c. In addition to the above general guidelines, the following practices are strictly prohibited:
  1. Interview questions that fail to recognize the impact of past employment discrimination on an applicant's ability to access certain markets and gain direct, relevant experience.
  2. Interview questions regarding an applicant's personal life, protected traits or characteristics.

## II. Interview Rubrics

- a. Prior to conducting interviews, an organization's Human Resource Office(r) should develop, for use by hiring teams, an interview rubric. The purpose of an interview rubric is to center objectivity, consistency, and equity in the evaluation of candidates. This can be accomplished by providing a clear, standardized set of criteria against which all candidates are evaluated.
- b. At minimum, interview rubrics must consist of the following components:
  1. **Criteria.** Rubric criterion must elicit a detailed response from applicants regarding the skills, abilities, and experiences that a position requires.
  2. **Quality of Interview Question Responses:** Rubrics must provide clear descriptors to differentiate the quality of interview question responses. To support inclusive hiring and correct the effects of past employment discrimination, rubrics must give weight to existing qualifications and potential for growth. A template rubric is included below for reference.

| Criteria | 1<br>Limited Competency                                    | 2<br>Partial Competency                           | 3<br>Competent  | 4<br>Subject Matter Expert                             |
|----------|--|---|---|--|
|          | Applicant has limited to no experience applying criterion. | Applicant has some experience applying criterion. | Applicant has sufficient experience applying criterion. | Applicant has in-depth experience applying criterion.  |
|          | Applicant has minimal to no content area knowledge         | Applicant has working content area knowledge      | Applicant has content area knowledge                    | Applicant has technical expertise regarding criterion. |

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|  | regarding criterion.<br><br>Applicant will require substantial, foundational training in subject or skill. | regarding criterion.<br><br>Applicant will require some, non-extensive, on-the-job training to acquire proficiency in criterion. | regarding criterion.<br><br>Applicant will require limited to no further on-the-job training relative to criterion. | Applicant will require no additional on-the-job training relative to criterion. |
|--|--|--|---|---|

3. **Weightage:** Interview rubrics should assign weight to each criterion to indicate its importance in the overall assessment. To be particularly equitable:
  - Less weight should be assigned to skills that can be reasonably acquired through on-the-job training.
  - More weight should be assigned to skills where an organization requires or is seeking technical, subject matter expertise.
  - Some weight should be assigned to an applicant's ability to add to an organization's diverse workforce representation hiring goals.
4. **Scoring Guidelines:** Interview rubrics should offer guidelines for assigning scores for each criterion to maintain consistency in evaluations.
5. **Comments or Feedback Section:** Interview rubrics should allow evaluators to provide feedback, context, comments, observations, and justification for their scores.
6. **Bias Checklist:** Interview rubrics should include a mechanism for evaluators to review, identify, assess, and mitigate against potential biases in the assessment of Applicants.

### III. Design and Disclosure of Interview Information to Applicants

- a. Accessibility should be at the core of interview design. For this reason, hiring teams should consider:
  1. Keeping interview settings and conditions as standardized as possible.
  2. Meeting the physical on-site and/or digital online accessibility recommendations provided in the *Inclusive Workplace Policy Guidance*.
  3. Providing candidates with a pre-interview resource that identifies:
    4. Interview time and structure.
    5. Interview questions to be asked of candidates in advance.
  6. Profiles and biographies of individuals on hiring panel (as inclusive of gender pronouns and name phonetic pronunciation).



7. Break times (to be provided as an option to candidates for interviews greater than 30 minutes in length).
8. Inclusive dress and grooming provisions.
9. Instructions on how to use the chosen interview platform (if online).
10. Directions, transportation, parking and other accessibility instructions (if on-site).
11. Accommodation instructions.

#### **DID YOU KNOW?**

Providing interview questions in advance ensures the accessibility needs of a diverse range of candidates, particularly candidates who, due to past discrimination, elect not to affirmatively communicate an accommodation need.

“My autism means I process information slowly and intensively. This makes it incredibly difficult and stressful for me to answer questions on the spot. Interviews - and interview prep - are absolute hell as I try desperately to prepare for every possible question I might be asked. Meanwhile, as an in-depth, analytical thinker, I tend to gravitate towards roles that involve very little on-the-spot thinking. So the current style of interviews is ill-suited to the roles I'm applying for and a poor indication of whether or not I'm the right person for the job. Sending candidates the questions in advance of the interview is not only common sense, but a far more inclusive way of interviewing that allows neurodiverse people to shine.”

- Rowena Knight<sup>24</sup>

#### **IV. Interview Conduct**

- a. Prior to conducting interviews, hiring teams should consider reviewing and discussing the various types of biases that may impact how interviewees are evaluated. For example, differences in verbal and nonverbal communication such as eye contact, firmness of handshake, presence of smile, long pauses, stimming, stuttering, body language, and other behaviors may be related to disability, english as a second language (“ESL”), interview anxiety, cross-cultural norms, and other combinations of personal factors. Hiring panelists should not, therefore, reference differences in communication styles or social norms as indicators of ability or competency.
- b. Whenever possible, interviews should not be scheduled back-to-back. Hiring team members should be provided with sufficient time to process, rest, and otherwise avoid burnout. This helps ensure panelists have the energy, clarity and presence of

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<sup>24</sup> Karl Rinderknecht, “It's time to start sharing interview questions before the interview,” (LinkedIn, March 22, 2021). <https://www.linkedin.com/pulse/its-time-start-sharing-interview-questions-before-karl-rinderknecht/>

mind needed to pay attention to all candidates and to conduct interviews fairly and effectively.

#### SCHEDULE 9: CANDIDATE SELECTION & EMPLOYMENT OFFER

- a. In identifying a successful candidate, amongst many short-listed candidates, organizations may wish to adopt an employment equity mechanism. This mechanism is applicable to organizations with special employment program(s). To benefit from such programs, candidates must voluntarily self-identify as being part of an under-represented, historically disadvantaged demographic requiring targeted employment equity supports.
- b. An employment equity mechanism applies when shortlisted candidates are judged to be relatively equal in qualification, as per an organization's aggregate interview rubric results. Specifically:
  1. If shortlisted candidates are similar or equal in qualification, then hiring preference should be given to the equity-denied candidate for which a 50/30 hiring goal exists.
  2. If there are multiple shortlisted candidates from multiple equity-denied characteristics, for which 50/30 hiring goals exist, then the goal with the least amount of progress should have priority.
- c. Hiring teams should agree on the candidate being recommended for the position unanimously. Unsuccessful candidates should receive a rejection letter from the hiring team in a timely manner.
- d. Employment offers must comply with internal policies, namely an organization's *Equal Employment Opportunity* and *Pay Equity Policy*. Candidate must be provided with a written offer of employment to include information regarding compensation, benefits package, professional development plan, etc. to enable informed decision-making. Candidate must be given a reasonable number of days to consider the offer and to negotiate the terms of employment.

#### SCHEDULE 10: ONBOARDING, MENTORSHIP AND EMPLOYEE RETENTION PROGRAMS

- a. Organizations should consider:
  1. Providing sufficient resources to support an incumbent candidate's success in a role.
  2. Ensuring incumbent employees acclimate to the work environment and complete onboarding requirements prior to being assigned official work tasks and duties.
  3. Ensuring incumbent employees, in need of accommodation to perform their role, are provided with the same, as per terms of an organizations' *Accommodations Policy*.

## SCHEDULE 11: PROGRAMS TO ADDRESS PRE-EMPLOYMENT CONDITIONS AFFECTING EQUAL EMPLOYMENT OPPORTUNITY

- a. Organizations should consider vesting their Human Resources Office(r) with the authority to develop special employment programs to address opportunity deficits and create recruitment pipelines for members of equity-denied groups.

## SCHEDULE 12: EQUITY AUDIT

- a. Organizations should consider auditing the equitable nature of their recruitment processes as per terms of the *Ethical Collection of Equity Data Policy Guidance* and *Equal Employment Opportunity Policy Guidance*.

### EMPLOYEE PROFESSIONAL DEVELOPMENT AND PERFORMANCE MANAGEMENT POLICY GUIDANCE

1. Professional development is essential to an organization's talent acquisition and talent management objectives. It may in fact be the most effective performance management tool. Employers who invest in the growth of their employees are more likely to experience an engaged, committed, and motivated workforce, as measured by decreased employee turnover, absenteeism and presenteeism; increased efficiency; and improved work product.<sup>25</sup>
2. This Guidance helps organizations identify best practices in the development of their workforce's talent. Additionally, it offers a set of key performance indicators (KPIs) that are informed by principles of equity to account for the quality of employee performance. Such KPIs are critical given that performance metrics are relied upon by organizations to make decisions regarding pay, employee promotion, succession planning to senior executive roles, and employee termination or retention.
3. By coupling professional development and performance together, this Guidance aims to ensure organizations are consistently held to account as it regards the skills development, equitable compensation, and professional mobility of their workforce.
4. Organizations who utilize professional development as a performance management tool are better able to make informed decisions regarding the existing abilities and talent capacities of their employees. This is particularly effective in helping organizations cultivate an agile, versatile and highly skilled workforce, with the experience and skills necessary to take on greater responsibilities. This is also particularly effective in identifying employees who—

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<sup>25</sup> Zulqurnain Ali, Madeeha Bashir, Aqsa Mehreen, "Managing Organizational Effectiveness through Talent Management and Career Development: The Mediating Role of Employee Engagement," *Journal of Management Sciences*, 6(1), 62-78 (2019). [https://www.researchgate.net/profile/Zulqurnain-Ali/publication/332560759\\_Managing\\_Organizational\\_Effectiveness\\_through\\_Talent\\_Management\\_and\\_Career\\_Development\\_The\\_Mediating\\_Role\\_of\\_Employee\\_Engagement/links/5cc15238299bf120977d832d/Managing-Organizational-Effectiveness-through-Talent-Management-and-Career-Development-The-Mediating-Role-of-Employee-Engagement.pdf?\\_sg%5B0%5D=started\\_experiment\\_milestone&origin=journalDetail&\\_rtd=e30%3D](https://www.researchgate.net/profile/Zulqurnain-Ali/publication/332560759_Managing_Organizational_Effectiveness_through_Talent_Management_and_Career_Development_The_Mediating_Role_of_Employee_Engagement/links/5cc15238299bf120977d832d/Managing-Organizational-Effectiveness-through-Talent-Management-and-Career-Development-The-Mediating-Role-of-Employee-Engagement.pdf?_sg%5B0%5D=started_experiment_milestone&origin=journalDetail&_rtd=e30%3D)

despite the provision of training and all necessary supports—are unable to perform the roles to which they have been hired and should be subject to termination.

#### Statement of Policy Purpose

- a. A statement of purpose is a crucial component of any policy document. It articulates a policy's objective, providing a concise expression of what a policy seeks to achieve. In the event of ambiguity or uncertainty, a clear statement of purpose provides readers with the interpretive guidance necessary to construe policy language in a manner that effectuates a policy's spirit or intent.
- b. Effective leadership empowers employees to excel. In developing a policy specific to employee professional development and performance management, organizations should consider highlighting the mutual benefits of continuous workforce development.
- c. First, talent development helps achieve the 50/30 Challenge goal of increased, substantive representation of equity-denied candidates in each layer of an organization's employment hierarchy. Second, a clear relationship exists between workforce talent and an organization's ability to realize its own goals and objectives and small employers have just as significant a need for robust talent development as larger employers.
- d. Limitations in the lateral progression of employees (in terms of the availability of roles), should not be prevent smaller organizations from developing their employees substantively, as robust skills development ensures the existence of a pipeline of well-prepared talent, capable of taking on roles of increased complexity and authority, during times of organizational crisis, change or need.

#### Application and Scope

- a. An organization's professional development and performance management policy should consider identifying the scope of laws and/or policies its policy seeks to implement or apply. Organizations are encouraged to specifically reference their Equal Employment Opportunity Policy, Succession Planning Policy as well as the human rights legislation to which their subject.
- b. These sources of law or internal authority, mandate that employees be provided with fair access to the terms, benefits, and privileges of employment. Such terms and benefits include professional development, promotion, and merit-based, equitable compensation—that is conditions of fair employment, which an organization's professional development and performance management policy should aim to regulate.

#### Definitions to Support Policy Interpretation

- a. A "definitions' sub-provision is integral to any policy document. It ensures a shared understanding of key terms that are critical to the proper comprehension and correct

application of a policy's terms. In defining terms specific to this policy, organizations may consider drawing from, adding to, or adopting the following sample "Definitions" policy provision.

- Absenteeism** Refers to when an employee is regularly absent from the workplace. Common causes of absenteeism include:
1. Illness whether acute, episodic, or chronic.
  2. Family responsibilities.
  3. High levels of job-related stress and burnout.
  4. Lack of job satisfaction, disengagement and low morale given nature of work environment.
  5. Inadequate work-life balance.
- Acting Roles** Refers to when an employee assumes the responsibilities of a higher-level position or a different role within the organization on an interim basis, with a corresponding increase in pay, for the duration of the assignment. Acting roles are generally available upon leave of the employee, to which the position was originally held, or upon a vacancy.
- Presenteeism** Refers to when an employee is physically present at work, but their work product is significantly diminished, reduced or compromised. Common causes of presenteeism include:
1. Job dissatisfaction.
  2. Work overload, excessive tasking of assignments and unrealistic expectations.
  3. Personal responsibilities and life challenges coupled with inability to take leave or fear of job loss or negative consequences if leave is requested.
- Secondment** Refers to the temporary assignment of an employee from their current department to another department or project for a specific period of time. During a secondment, an employee completes their designated host role while remaining an employee of their home department. Secondments are used for skills development, knowledge sharing, cross-functional collaboration, or to address short-term staffing needs.
- Turnover** Refers to when employees resign from an organization voluntarily. Reasons for turnover include identification of a more competitive, advantageous job opportunity; need for increased opportunities for professional development

or career advancement; dissatisfaction with current workplace conditions, retirement, etc.

### Principles Supporting Policy's Interpretation

- a. In developing an *Employee Professional Development and Performance Management Policy*, organizations should consider defining their human resource management method. Managers are generally responsible for the training, direction and development of reporting employees. It is, therefore, essential for organizations to define the manner and method of management that will shape this supervisor-employee experience.
- b. This Guidance adopts a partnership model or shared leadership view of human resource management, as referenced in the *Inclusive Workplace Policy Guidance*. Instead of top-down, autocratic leadership, this approach emphasizes collaboration and shared responsibility, with the overarching goal of creating a workplace that is equitable, respectful, and supportive. This model is defined by the following principles:

1. **Shared Vision.** This principle requires managers and employees to collectively identify and work towards common goals that contribute to an organization's success.

Goals set should be clear, achievable, relevant and meaningful to both parties.

For example: A needs x talent for y project. B, with x talent, needs specific opportunities to work on projects like y. Here, the professional development goals of the employee and the needs of the organization align. The employer and employee are equally committed to the realization of a shared objective.

2. **Open Communication.** This principle emphasizes the importance of effective communication between managers and reporting employees. As applied in the managerial context, effective communication requires those in a supervisory role to:
  - Demonstrate open and transparent communication.
  - Actively engage the perspectives of employees in decision-making processes.
  - Clearly identify goals, expectations, and the support available to employees to meet them.
  - Maintain consistency as to identified goals or objectives; and refrain from issuing contradictory or conflicting directives.<sup>26</sup>

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<sup>26</sup> Consistency is vital in a workplace. It fosters a sense of stability and predictability. When employees have confidence that expectations won't shift unexpectedly, they can commit to tasks assigned, with clarity.

- Encourage employees to voice their concerns and work towards solutions collaboratively.
3. **Supportive Leadership.** This principle requires employees to be empowered to take ownership of their responsibilities and contribute to decision-making processes. It also requires managers to provide the tools, guidance, and support necessary to facilitate employee success.
  4. **Mutual Respect.** This principle highlights the need for managers and reporting employers to recognize each other's rights to treatment in accordance with an organization's *Respectful Workplace Policy*. Mutual respect creates a positive and inclusive work environment where all employees feel valued and appreciated.

**V. Procedures Defining Policy's Implementation**

- a. Employee professional development should begin as early as onboarding. That is upon the successful recruitment of an incumbent candidate, organizations should consider developing an individualized, professional development and performance management plan. This Plan should clarify, with particularity, the following:

|  |  |
|--|--|
| Employee's Current Role:   |  |
| Employee's Salary:   |  |
| <b>Provisions to Support Employee's Success in Role<br/>(Performance Management)</b>   | <b>Provisions to Support Employee's Mobility from Role<br/>(Professional Development)</b>  |
| <ol style="list-style-type: none"> <li>1. Managers should provide incumbent employees with clear written and verbal guidance regarding: <ul style="list-style-type: none"> <li>• The context of an employee's role.</li> <li>• How the role fits within the department/work of other employees.</li> <li>• How the role relates to broader organizational objectives.</li> </ul> </li> <li>2. Managers should provide incumbent employees with a clear forecast of tasks, duties, projects that the employee will be responsible for the week, month,</li> </ol> | <ol style="list-style-type: none"> <li>1. Managers should learn the desired professional development goals and career trajectory of incumbent employees.</li> <li>2. Managers should collaboratively co-identify the additional skills and experiences needed by employees to achieve their desired professional development goals.</li> <li>3. Managers should, to the extent feasible, align employee professional development goals, with tasks, duties, and projects assigned.</li> <li>4. Managers should identify and pair employees with resources to support desired professional development goals. This includes:</li> </ol> |

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| <p>quarter, etc. Forecasts must be achievable.</p> <p>3. Managers and employees must collaboratively co- identify the essential skills, training, and supports the employee will require to accomplish anticipated tasks. To help ensure training and other resource supports are targeted, managers should co-identify with incumbent employees their existing skill competencies as well as skill deficits.</p> | <ul style="list-style-type: none"> <li>• Mentors.</li> <li>• Learning resources as inclusive of professional development funds for educational courses.</li> <li>• Job acting, secondment, or shadowing opportunities.</li> <li>• Leadership pipelines and other special employment programs for members of equity denied groups.</li> </ul> |
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## VI. Appraisal of Performance

- a. Organizations should consider conducting quarterly reviews of an employee’s professional development and performance management plan. Benefits of more frequent reviews include the following:
  1. **Timely Feedback:** With quarterly reviews, employees receive more timely input on their performance, making feedback more relevant and actionable.
  2. **Enhanced Accountability:** Employees are more likely to hold themselves accountable to achieving goals and objectives when they know their progress will be assessed regularly.
  3. **Skill Development:** More frequent reviews allow managers and employees alike to track employee skill development; identify areas where employees are making progress and areas that require additional attention or training.
  4. **Documentation:** Quarterly reviews provide a structured framework for documenting employee performance and development over time. This documentation enables informed decision-making regarding promotions, raises, whether to employee can be trusted with additional responsibilities, etc.
  5. **Enhanced Manager-Employee Relationships:** Regular interactions between managers and employees allows managers to gain a deeper understanding of their employees' strengths, challenges, and career aspirations.
- b. At minimum, the following items should be assessed during each professional development/performance review period:

| <b>Employee’s Success in Role<br/>(Performance Management)</b> | <b>Employee’s Mobility from Role<br/>(Professional Development)</b>                              |
|--|--|
| 1. Employee’s performance per identified project.              | 1. Employee’s progression with regards to skills development and professional development goals. |



|   |   |
|---|---|
| 2. Sufficiency of training and supports provided by employer towards employee's successful accomplishment of identified project(s). | 2. Sufficiency of resources and supports provided by employer towards employee's identified professional development goals. |
|---|---|

- c. Organizations should develop an evaluation framework to measure employee performance. An example of such a framework is provided for reference below:

|                         |   |
|-------------------------|---|
| <b>Context</b>          | Reviewing team should identify the context in which a project was assigned to an employee. This includes project's background, purpose, and significance within the broader organizational framework. This also includes any challenges or difficulty associated with project completion.   |
| <b>Responsibilities</b> | Reviewing team should identify employee's responsibilities with respect to projects/tasks assigned. The difficulty level and/or complexity of responsibilities should also be noted. Understanding the difficulty level of responsibilities helps managers and employees alike measure or gauge the extent of employee growth. It also helps identify specialized training needs.   |
| <b>Supports</b>         | Reviewing team should identify the training and supports provided to employee to successfully accomplish task assigned. Managers should specify type of support provided, duration of support, etc.   |
| <b>Action</b>           | Reviewing team should provide a high-level overview of the efforts made by employee towards project or task completion. Managers should delineate skills demonstrated by employee.  |
| <b>Results</b>          | <p>Reviewing team should provide quantifiable data or some metric by which to demonstrate the impact of employee's performance or malperformance.</p> <p>For example: Employee was tasked with Project A. This project was meant to facilitate xyz objectives, with a scheduled completion date of _____. If completed, Project A would serve the following company objectives: _____. Employee played x role in furthering Project A goals. Over the course of _____ time, Employee made (or failed to make) the following contributions, resulting in the following advantages (or disadvantages) to desired company outcomes: _____.</p> |
| <b>Recommendation</b>   | Reviewing team should indicate whether they recommend the following:  |

|  |  |
|--|--|
|  | <ul style="list-style-type: none"> <li>• That employee be assigned greater opportunities or less.</li> <li>• That employee be awarded a performance-based salary increase or maintain current compensation rate.</li> <li>• That employee be promoted, maintain current position, be demoted or terminated.</li> <li>• That employee be provided an acting or secondment opportunity in a role desired, for which employee is qualified or qualifiable, or not.</li> <li>• That employee otherwise be appropriately identified and developed for key positions as per terms of [Organization]'s Succession Planning Policy.</li> </ul> |
|--|--|

## VII. Bias Mitigation in Appraisal of Employee Performance

- a. To mitigate against individual bias, during professional development and performance reviews the following approaches should be adopted:
  1. To the extent practical, reviews should be carried out by more than one (1) individual, not solely an employee's direct reporting manager.
  2. All personnel charged with performing an evaluator role must receive and actively engage in comprehensive anti-bias training.
- b. To mitigate against systemic bias, organizations are encouraged to audit, in aggregate, performance reviews, a minimum of once a year.
  1. The audits should scrutinize performance evaluations based on protected group identity markers, such as race, gender, to identify any disparities or biases in the way performance evaluations are conducted within an organization.
  2. Additionally, the audits should examine promotion data to assess how employees from statutory protected backgrounds progress through the various levels of an organization's hierarchy. This examination helps ensure equal and fair opportunities for career advancement for all.

## **Part V**

### **Health Benefits, Leave Entitlements and Other Corresponding Policies**

## COMPREHENSIVE LEAVE & INCLUSIVE BENEFITS POLICY GUIDANCE

1. The benefit of benefits is simple. A comprehensive benefits package signifies an organization's commitment to the welfare of its workforce. They are a vital talent acquisition and retention tool. Ideally benefits should:
  - a. Enhance employee financial security.
  - b. Support employee work-life balance.
  - c. Improve employee physical, mental and emotional well-being.
  - d. Increase employee workforce engagement.
2. Organizations are encouraged to explore what form and manner of benefits they can offer their workforce, using the framework of broad and inclusive coverage further explicated in this Guidance below.

### I. Statement of Policy Purpose

- a. A statement of purpose is a crucial component of any policy document. It articulates a policy's objective, providing a concise expression of what a policy seeks to achieve. In the event of ambiguity or uncertainty, a clear statement of purpose provides readers with the interpretive guidance necessary to construe policy language in a manner that effectuates its spirit or intent.
- b. In developing a policy specific to leave and benefits, organizations should consider setting forth a statement of purpose highlighting the importance of broad and inclusive coverage. Broad coverage provides for the greatest number of proven or known needs within an organization's workforce. It accounts for the diverse and evolving nature of employee needs. Individuals within an organization may face distinct challenges and circumstances, and a policy with comprehensive or broad coverage endeavors to be responsive to this diversity.
- c. Broad coverage of proven needs is insufficient in and of itself. Organizations must also strive for inclusivity *within* that broad coverage. Employees of all backgrounds and diversity characteristics must have equal access to employment benefits. This is critical to ensuring compliance with anti-discrimination provincial human rights legislation.

- d. The following examples are provided to aid organizational understanding of the distinction between these two terms.
  - i. If parental leave is provided (coverage of a broadly proven need), definitions such as “child” must account for kinship and other relationships of primary or exclusive support and care where there are no blood or legal ties (inclusive coverage).
  - ii. If menstrual or pregnancy leave is provided (coverage of a broadly proven need), then access to such benefits must be gender diverse, as persons of all gender identifications may experience needs specific to these biological conditions (inclusive coverage).

## **II. Application and Scope**

- a. An organization’s leave and benefits policy should consider identifying the scope of employees entitled to benefits, and when such benefits vest or attach. This involves delineating the categories of employees—such as full-time, part-time, or temporary—who are eligible for and may access benefits. To be particularly equitable, benefits should attach to as many categories of employees as possible, as per terms of the *Policy to Protect Against Precarious Employment Guidance*.
- b. Benefits should further vest upon hire. Asymmetrical relationships where employees invest their time, talent, and skills without receiving corresponding support in the form of essential benefits until a timeframe dictated by the employer undermines principles of fairness and equity. This practice is not only detrimental to the physical and mental well-being of an organization’s workforce, it also creates an atmosphere of inequity and disregard for the holistic needs of employees.
- c. As such, and to the extent feasible, the practice of arbitrarily withholding employee benefits, pending completion of a probationary term, of a length arbitrarily and unilaterally decided upon by the employer should be abandoned. Organizations are encouraged to adopt a more compassionate, humane approach—one that centers the health, safety, and wellbeing needs of their employees.
- d. Organizations are further encouraged to commit to a high level of employer sponsorship for benefits, up to the maximum extent practical. Benefits that are sponsored wholly or fully by the employer are particularly advisable as such sponsorship:
  - i. Enhances an organization’s attractiveness as an employer.
  - ii. Alleviates employees of a financial burden or responsibility they are least equipped to bear, given the various financial commitments and challenges employees face.
- e. The above approaches are recommendations only. Organizations are encouraged to assess the equity needs of their workforce and develop relevant application and scope language, pertaining to leave and benefits, that contributes to a more equitable and supportive work environment.

## **III. Definitions to Support Policy Interpretation**

- a. In defining terms specific to a leave and benefits policy, organizations should consider preferencing the use of inclusive terms, and, to the extent possible, ensuring the use of such terminology in all related documents and benefits' processes.
- b. This includes expressly avoiding the use of gendered language. That is words, phrases, or expressions meant to specifically denote or imply a particular gender. Organizations should instead consider the following:
  - i. Use of terms such as spouse or partner instead of husband or wife.
  - ii. Use of terms such as child or dependent instead of son or daughter.
  - iii. Use of terms such as sibling instead of brother or sister.
  - iv. Use of terms such as caretaker, parent, or guardian instead of father or mother.
  - v. Use of terms such as parental leave or family leave instead of maternity or paternity leave.
  - vi. Use of forms, applications or systems that require individuals to identify as male or female or to identify by honorifics such as "Mr.," "Mrs.," or "Ms" exclusively.
- c. Organizations should also consider affirmatively expressing the inclusion of persons of diverse sexual orientation, gender identity, gender expression and sex characteristics ("SOGIESC") in their definition of "spouse" or "common law partner." Human rights affirming language is particularly important, in this instance, given both the recent recognition of and ongoing challenges to the rights of SOGIESC diverse persons.
- d. In defining essential terms such as "dependent," organizations are encouraged to adopt a broad and liberal approach—one that transcends exclusive Euro-western notions of the nuclear family, by recognizing and providing for the needs of employees with diverse family structures. A liberal definition of dependents:
  - i. Accommodates a spectrum of family arrangements by considering the varied ways in which individuals form and sustain familial connections.
  - ii. Reflects a commitment to cultural sensitivity and inclusivity by recognizing that family structures extend beyond conventional norms and can encompass a range of relationships, such as extended family members, chosen family, or those in non-traditional familial roles.

**Dependent** A minor of a certain age whose wellbeing, maintenance, and care an employee is primarily responsible for or has parental or custodial rights to, by way of blood, adoption, custody, or guardianship order. This definition includes the dependents of an employee's spouse or common-law partner.

#### **IV. Comprehensive Benefits Coverage**

- a. This Guidance provides a high-level overview of what comprehensive benefits responsive to employee diverse needs may entail. By considering the diverse landscape of employee needs, organizations position themselves as adaptable and responsive employers, committed to the individual and collective well-being of their

employees, by fostering a work environment that goes beyond a one-size-fits-all approach.

- b. This Guidance offered below is not exhaustive. It is meant to aid organizations in their exploration and implementation of benefits that align with the specific requirements of their workforce.

- i. **Comprehensive Health Coverage**

Comprehensive health care coverage should encompass an extensive array of medical services, treatments, and procedures. In light of specific considerations such as:

- i. Organizational commitment to reconciliation, under the charter of the Truth and Reconciliation Commission’s Calls to Action.
    - ii. The substantial health disparities existing between Indigenous and non-Indigenous Canadians due to ongoing histories of colonialism.
    - iii. The distinct approaches to health, wellness, and other healing modalities as practiced by Indigenous cultures, as opposed biomedical approach to health care.

Comprehensive health care coverage should actively incorporate traditional knowledge and culturally based healing systems. This involves recognizing the value of Indigenous healing practices and ensuring that coverage extends to services that align with these traditional approaches.

Coverage which provides for the cultural, spiritual, psychological, social, historical, political and community-specific aspects of Indigenous employee’s health needs includes coverage for plant medicines, healing rooms, turtle lodges, land-based aftercare (e.g., fishing, hunting, memorial walks, community gardening), Elder-run healing sessions (individual and groups), traditional healers, access to ceremonies and cultural teachings.

### TYPES OF COVERAGE

|                          |  |                       |                              |
|--------------------------|--|-----------------------|------------------------------|
| Primary Care             | Specialty Care                         | Hospitalization Care  | Prescription Drugs           |
| Urgent Care              | Maternity and Reproductive Health Care | Gender-Affirming Care | Diagnostic Tests and Imaging |
| Occupational Therapy and | Indigenous-led Health Services         | Dental Care           | Vision Care                  |

|                         |                              |  |  |
|-------------------------|------------------------------|--|--|
| Rehabilitative Services |                              |  |  |
| Preventive Services     | Alternative Health Therapies |  |  |

**1. Surrogacy and Adoption Family Planning Benefits:**

Organizations should consider, to the extent practical, providing employees with family planning benefits. Surrogacy and adoption benefits are part of a broader spectrum of family-friendly policies that organizations may offer to attract and retain talent while recognizing the diverse ways in which employees choose to form their families. Benefits include the reimbursement of expenses, up to a certain amount, for costs associated with:

- Legal procedures, documentation, and any necessary legal representation during the adoption or surrogacy process.
- Medical fees related to the adoption or surrogacy including prenatal care, and childbirth expenses.
- application, placement, and other fees charged by adoption or surrogacy agencies.
- Expenses related to travel for adoption proceedings, home studies, or surrogacy-related appointments.
- Counseling and other support services.

**2. Financial Benefits:**

Financial wellness benefits teach employees how to budget, manage debt, and save for the future. Financially stressed employees are more likely to seek alternative employment opportunities. Financial stress may also give rise to health issues, expressed in the workplace as increased employee absenteeism and presenteeism rates. By providing financial literacy programs, organizations can reduce turnover rates and the associated recruitment and training costs. Financial benefits may include:

- Retirement savings plans.
- Employee stock purchase plans.
- Financial counseling and education.
- Student loan repayment assistance.

**3. Wellness Programs:**

Employee wellness programs encourage and facilitate employees' overall health and well-being. Healthier employees are generally more productive. By investing in employee well-being, organizations can potentially see higher levels of performance and efficiency.

Wellness benefits include:

- Gym memberships or fitness incentives.
- Employee assistance programs (EAPs).
- Stress management and mindfulness programs.



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**4. Education and Career Development:**

- Tuition reimbursement for further education.
- Mentorship and coaching programs.

**5. Diversity and Inclusion Initiatives:**

- Employee resource groups (ERGs).
- Coverage of fees or provision of opportunities for mentorship and networking opportunities designed to connect individuals from specific, equity-denied identity groups, with mentors and peers who share similar backgrounds or experiences.

**6. Leave Benefits:**

- To the extent practical, employers should prioritize the provision of paid leave. Paid leave plays a pivotal role in allowing employees to attend to their own well-being and address personal and family needs without fear of financial devastation. Where paid leave is exhausted or is otherwise unavailable, organizations should consider allowing employees to take unpaid leave, with the noted benefit of job security. That is allowing employees to take extended leave, for a time agreed upon by the employer, with the knowledge that their role awaits them upon the leave's exhaustion. This type of leave may be particularly useful for employees undergoing full-time learning studies, for example.
- All in all, an organization's time-off benefits should be flexible, accommodating employees with diverse life situations, including those pursuing further education, caring for family members, or taking personal sabbaticals.

**EXAMPLES OF TYPES OF LEAVE**

|                   |                 |                                      |                 |
|-------------------|-----------------|--------------------------------------|-----------------|
| Vacation Leave    | Sick Leave      | Personal Leave                       | Pregnancy Leave |
| Bereavement Leave | Parental Leave  | Inclusive Cultural & Religious Leave | Menstrual Leave |
| Educational Leave | Volunteer Leave | Compassionate Care Leave             |                 |

- Organizations should bear in mind certain equity considerations as it relates to the following types of leave.
  - Bereavement Leave.** While providing time for employees to grieve tragedy, organizations should take great care not to seek to define or limit employee expressions of grief. Policy provisions that grief-related leave is only available to the loss of certain persons should be abandoned in favor of a more compassionate, humane approach. One that acknowledges that grief is multi-

faceted and can stem from various sources such as mass trauma events and collective horrors, to loss of a loved one or dear pet.

- ii. **Cultural and Religious Leave.** Organizations are encouraged to offer unlimited cultural and religious leave as a way of acknowledging and respecting the diverse faith and cultural backgrounds within their workforce. The term "unlimited" in this context does not grant employees unrestricted discretion to be absent from work at will. Rather it allows employees to observe a legitimate religious, spiritual, or cultural practice or tradition, to which the right to accommodations may attach, in accordance with an organization's established leave procedures. This approach aims to support inclusivity while ensuring that leave is taken within a structured and approved framework.
- iii. **Parental leave.** Organizations should have a broad and inclusive understanding of how employees may assume parental, guardian, or caretaker roles. By adopting an expansive definition of "dependent" or "child," as previously outlined in this Guidance, organizations render essential benefits accessible to employees with diverse family structures.
- iv. To correct for equity deficits, organizations should further consider topping up employment insurance ("EI") pregnancy (referred to as "maternity" by EI) and parental leave benefits, within the constraints allowed by EI legislation. Employer top ups help reduce the difference between EI benefits and an employee's regular earnings. This proactive measure reflects a commitment to promoting fairness and alleviating financial disparities during critical life stages for employees.

#### **7. Childcare and Eldercare Support:**

- On-site or subsidized childcare.
- Eldercare assistance programs.

#### **8. Transportation and Commuting Benefits:**

- Public transportation subsidies.
- Commuter benefits (e.g. transit passes).

#### **9. Insurance Benefits:**

- Disability insurance.
- Group life insurance

#### **10. Technology and Work Tools:**

- Home office stipends.

#### **11. Relocation Assistance:**

- Assistance with moving expenses.
- Temporary housing arrangements.

### **V. Duties and Responsibilities**

Organizations should consider identifying duties and responsibilities specific to the administration of any leave and benefits policy. This includes the duties owed by employees and human resource

officers alike towards the timely processing of leave requests and the timely enrollment of employees into any employer-sponsored benefits plan.

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