

# LOU 4: Employment Equity — Aboriginal Employees

## ❖ Overview

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This letter commits the parties to work together to create a template process for school districts to use in the recruitment and retention of Aboriginal teachers.

## ❖ Letter of Understanding No. 4 Re: Employment Equity – Aboriginal Employees

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*The parties recognize that Aboriginal teachers are underrepresented in the public education system. The parties are committed to redress the underrepresentation of Aboriginal employees and therefore further agree that:*

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

## ❖ Explanation

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The BC Human Rights Tribunal has a “special programs” policy explaining the process for school districts to follow when seeking to implement special programs as outlined in section 42 of the BC *Human Rights Code* (see below for the wording of section 42 of the Code).

The parties will work together to create a process that assists districts interested in applying to the Human Rights Tribunal for a special program. This assistance would include, but not be limited to, template policy language and template application processes to the Human Rights Tribunal and a checklist for completing the application.

A special program is any program or activity that has as its objective the amelioration of conditions of disadvantaged individuals or groups. An example is where a school district hires a member of a protected group to provide services to students and families who are members of the same group. In contrast, an employment equity program is a major employment initiative of a district that aims to achieve a workforce that is representative of the diversity of the available labour force in the general population.

This letter of commitment/letter of understanding addresses submissions to the Human Rights Tribunal for the exemption of special programs under the *Human Rights Code*. It does not seek to facilitate or limit employment equity programs in school districts.

***BC Human Rights Code, Section 42, Special Programs.***

- (1) *It is not discrimination or a contravention of the Code to plan, advertise, adopt or implement an employment equity program that
  - (a) has as its objective the amelioration of conditions of disadvantaged individuals or groups who are disadvantaged because of race, colour, ancestry, place of origin, physical or mental disability, or sex, and
  - (b) achieves or is reasonably likely to achieve that objective.*
- (2) *[Repealed 2002-62-23.]*
- (3) *On application by any person, with or without notice to any other person, the chair, or a member or panel designated by the chair, may approve any program or activity that has as its objective the amelioration of conditions of disadvantaged individuals or groups.*
- (4) *Any program or activity approved under subsection (3) is deemed not to be in contravention of this Code*

The full *Human Rights Code* can be found on the Human Rights Tribunal website at <http://www.bchrt.bc.ca/law-library/act/index.htm> .

## ❖ Application Process for Special Programs

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Before applying for approval for a special program, the district should do the following:

1. Consult with the appropriate community groups, organizations, and unions linked to the areas of disadvantage to be covered by the special program.
2. Identify the objectives and parameters of the program, ensuring that they minimize any negative impact on the people who are not members of the target group for the program.
3. Create a plan outlining the terms, the benefits to the group, and the conditions and duration of the program; include eligibility criteria and how the impacted parties were consulted.
4. Include in the plan the mechanisms the district will use in monitoring and evaluating the special program to ensure that the program remains the most appropriate way of achieving the district's goals.

5. Write a letter to the Human Rights Tribunal setting out the program plan and addressing all of the issues.

If the Human Rights Tribunal requires more or different information, it will contact the district.

The link to the Special Programs process is: <http://www.bchrt.bc.ca/law-library/employment-equity/special-programs.htm>

Special programs are time limited from between six months and five years. The special programs may be renewed, but a district must reapply before the expiry date of the existing program. The Human Rights Tribunal's website provides a process for reapplying for an existing special program – see Step four: renewal of the Special Programs section of the Human Rights Tribunal website at the link above.

## ❖ Relationship to Other Articles

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Districts interested in contributing to the template process or obtaining assistance in the process should contact their BCPSEA labour relations liaison for more information.