

College of New Caledonia



HUMAN RESOURCES

December 14, 2010

British Columbia Human Rights Tribunal
Suite 1170, 605 Robson St.
Vancouver, BC V6B 5J3

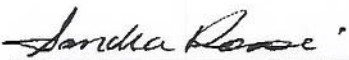
Attention: Heather M. MacNaughton

Dear Ms. MacNaughton:

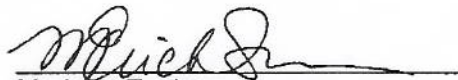
On December 7, 2009 the College of New Caledonia received a Special Program approval and is pleased to provide the first annual report at this time. The report has been reviewed by the College, CUPE Local 4951 and the Faculty Association. Additionally, the report will be distributed to the Aboriginal Advisory/Steering Committees at each of the College's campuses by Marlene Erickson, Senior Policy Advisor. Sandra Rossi, Director of Human Resources will provide copies of the report to both CUPE and the Faculty Association.

Please contact either Sandra or Marlene if you have any questions.

Sincerely,



Sandra Rossi
Director Human Resources
College of New Caledonia



Marlene Erickson
Aboriginal Student Services Manager and
Senior Policy Advisor on Aboriginal Education
College of New Caledonia

c: Lily Bachand, President, CUPE Local 4951
Jan Mastromatteo, President, Faculty Association of the College of New Caledonia

College of New Caledonia



Annual Report to the Human Rights Tribunal

December 2010



Background

On December 7, 2009 the British Columbia Human Rights Tribunal granted the College of New Caledonia (CNC) approval pursuant to s. 42(3) of the *Human Rights Code* to allow it to restrict hiring to Aboriginal applicants for the positions, to include the statement on postings for various positions, and to request proof of the eligibility criteria for a five year period.

Under the Special Program, positions considered for restrictive and/or preferential hiring qualifications must meet one of the following three criteria:

- a. Employees providing direct operational, instructional or administrative service to primarily Aboriginal students
- b. Employees instructing courses whose content is primarily Aboriginal
- c. Employees offering services and/or programs funded through Aboriginal-specific funding initiatives

The College committed to establishing a joint Special Program committee (SPC) consisting of the College, CUPE/Operational Staff and the Faculty Association to consult on the implementation of the Special Program and to assist in achieving its objectives.

With respect to measuring outcomes of the Special Program the College outlined a number of measurements for the progress and success of the Special Program, which are to be finalized through consultation with the Aboriginal Advisory/Steering Committees at the various campuses, CUPE and the Faculty Association.

Implementation Process and Timeline

The implementation of the Special Program at CNC has taken longer than any of the stakeholders originally anticipated. This is due to the complex nature of the College, and the collaborative approach taken with both unions in working through the definitions, implementation and management of the Program.

The following timeline summarizes the activities in the first year of the Special Program:

December 2009 – January 2010

Presentations were made to CNC's Management Team on the Special Program approval. Factors impacting implementation at various campuses and various employee groups were identified. The unions were asked to select two members each to participate on the joint committee.

February 2010

The first meeting of the Special Program Committee (Implementation) was held in February. The committee is comprised of:

- Associate Director, Human Resources
- Senior Policy Advisor, Aboriginal Education
- President, Faculty Association
- Chief Steward, Faculty Association
- President, CUPE
- First Vice, CUPE
- Regional Director, CNC Lakes District
- Regional Director, CNC Nechako District
- Vice-President, Community & Student Services (chair)

Discussions took place regarding the intent, parameters and potential of the Committee. The committee agreed the Vice-President C&SS would chair the committee during the development process. The committee agreed to meet every two weeks to speed the process; however collective bargaining was taking place making only monthly meetings possible. A Terms of Reference was drafted, but the committee agreed to table this in order to continue the work.

March 2010

Committee members spent a significant amount of time on information gathering and sharing regarding implementation of similar initiatives at other institutions in Canada. The history of employment equity, myths about employment equity, and barriers to successful implementation were shared and discussed.

In reviewing the potential positions that fit the three criteria, it immediately became evident how complex the issue would be because of the differences in the employment processes of each union. As well, many positions are part-time and many last only the length of a program. Thus, a template was drafted and a first grid of positions was developed.

The committee discussed the definition of Aboriginal heritage and ancestry. Aboriginal ancestry and heritage have common definitions; however for the purposes of this Committee it is defined as follows:

- Aboriginal ancestry is something you are born with whereas heritage is something that can be acquired. For example, a Caucasian person can be raised by an Aboriginal family therefore s/he has Aboriginal heritage, but not Aboriginal ancestry.
- Therefore CNC Special Program positions will require Aboriginal ancestry and if you do not have it you do not meet the qualifications.

CNC's approved application acknowledges the *Constitution Act's* definition of Aboriginal as the "Indian, Métis and Inuit" peoples of Canada. It also outlined the process for proving Aboriginal ancestry; therefore the committee did not discuss these topics at this time.

A Communications Sub-Committee was established to develop a strategy for releasing information about the process and implementation. The committee was cognizant of the sensitive nature of the topic and the myths that persist about employment equity; therefore it was important to ensure information released was concise and accurate.

- Agreed that "preferred" and "restricted" are internal designations only, to assist us in defining when non-Aboriginal people might be hired in lieu of an Aboriginal person
- Reviewed CUPE and administrative position descriptions and faculty job postings and decided on use of language relating to the Special Program
- Established Measurement Sub-Committee, including representatives from other areas of the College with expertise in data gathering and analysis
- Reviewed the role of the regional Aboriginal Advisory Committees (the College has five campuses and each has an Aboriginal Steering/Advisory committee)

April 2010

- The committee continued work to:
 - Develop usable templates for position identification and review
 - Develop usable summary grids for positions under Special Program
 - Review position descriptions and postings for inclusion in the Special Program
 - Develop common definitions and understandings
 - Develop workable measures for analysis and reporting
 - Discuss the meaning of the phrase "primarily Aboriginal content," and how "primarily" is defined

The last question in particular was confusing. What is the critical level of content that will trigger the definition of "primarily Aboriginal content?" Is it 50% Aboriginal content in the curriculum? 60%?

In addition, the complex process of developing summary grids and templates increasingly pointed to the need to consult with an expert who was familiar with the Special Program process. The CUPE representative identified Conni Kilfoil, a CUPE human rights lawyer, as a valuable and available resource to the Committee to assist with process and questions. Conni was invited to spend a day with the committee to answer questions and assist us in working through the legal aspects and the unclear phrases.

June 2010

The committee reviewed draft terms of reference (TOR) and once again decided to table them in favor of progressing. The committee was satisfied with the process thus far so the Terms of Reference was not a priority. As well, the committee was cognizant of the long term goal of employment equity and wanted more time to work on the TOR to ensure it would remain relevant for the long-term purpose of the committee.

Conni Kilfoil met with the committee for a full day, courtesy of CUPE. Connie provided information about the legal implications of the Special Program and spent a lot of time answering questions and clarifying definitions. In this way, she assisted the committee reach common definitions of several articles of the Special Program approval. Connie stressed the need for an effective communications strategy in implementing the program. She was very pleased with the collaborative process being used by the three parties. She felt that if the committee continued to work 'in the spirit' of the proposal and the program, they could reach agreement on any complex issues that arose. In all, bringing in a legal expert was a positive move because it affirmed the committee's process and relieved anxiety about interpreting and implementing the program 'correctly.'

The Committee members began reviewing jobs that can be designated under the three criteria and these were put onto a grid (Appendix I).

- The committee continued work to:
 - Develop usable templates for position identification and review
 - Develop usable summary grids for positions under Special Program
 - Review position descriptions and postings for inclusion in the Special Program
 - Develop common definitions and understandings
 - Develop workable measures for analysis and reporting

August 2010

At this time, the Committee discovered there was not a common understanding about the overall "count" [of positions] as presented during mediation and approved by the Tribunal. The unions believe the count is to be cumulative to a total of 50 positions over five years. In comparison, the College interprets the proposal and approval so that, at any one time, there would be approximately 50 positions active under the Special Program.

To keep the process moving, the College presented a proposal that the Committee use the two unions' interpretation during implementation. Once the Program is fully implemented and more data is gathered, the collaborative committee will review the meaning of "approximately 50 Aboriginal individuals employed in various. . . positions. . . over the five year period". A grid was developed which identified all the positions filled by Aboriginal employees as of August 2010. (See Appendix II)

In addition, CUPE identified that a separate issue relating to their collective agreement could appear to be linked with the Special Program if the communications strategy was immediately implemented. A decision was made by CUPE executive to hold off on SPC communications until this issue was resolved.

The committee's review of existing positions showed that two of the regional campuses hold most of the currently identified positions under the Special Program. It was also noted that the College will need to proactively support managers in implementing the Program.

Additionally, the committee realized they needed to develop a template for managers to guide them in deciding if a job posting fit the three criteria. Over time, this template was reduced to a one-page questionnaire of 'ticky boxes' whose answers clearly determined if a job should be posted as restricted to those with Aboriginal ancestry. This template is attached in Appendix I.

- The committee continued work to:
 - Develop usable templates for position identification and review
 - Develop usable summary grids for positions under Special Program
 - Review position descriptions and postings for inclusion in the Special Program
 - Develop common definitions and understandings
 - Develop workable measures for analysis and reporting
 - Decision was made to ask for proof of ancestry at time of job offer, not at time of application

October 2010

The CNC Special Program was launched. It can be viewed at: (http://www.cnc.bc.ca/Working/Human_Resources/Human_Rights_Special_Program.htm). The site contains the CNC application to the HRT, the HRT of the Special Program, Frequently Asked Questions, Myths about Employment Equity and SPC contact information.

In addition, the committee agreed on a tracking grid for the positions that are eligible to use Aboriginal ancestry as a bona fide employment qualification, as of August 17, 2010. Of these, 27 positions are currently filled by an Aboriginal employee as of August 17, 2010.

- Continued work on measurement definitions and process

November 2010

- Separate CUPE collective agreement issue resolved
- Communications roll-out begun (see Appendix III)

- Agreed to finalize Committee Terms of Reference and transition to the standing Special Program Committee in January 2011, after feedback from communications roll-out and regional meetings
- Agreed that a detailed process will be drafted for managers as to how to bring forward new positions for review by the Committee

Outcomes to December 2010

Specific outcomes:

- Common definitions and process agreed to for assessment of positions under the Special Program
- Template for identifying eligible positions
- Grid for tracking eligible positions
- Preliminary measurements drafted; still to be reviewed by Aboriginal Advisory Committees
- Implementation communications strategy developed and started
- Positive working relationships at the Committee

In terms of the communications strategy, the Committee felt it was important for the three parties to conduct a joint communications 'roll-out.' The intention was to emphasize to the College community that the Special Program process and implementation was a collaborative process supported by CNC, Aboriginal partner groups, and the unions.

The approval of the Tribunal indicated that the College's annual reports to the Tribunal are required to provide information on the measures, as well as to provide information on the College's efforts to move towards employment equity. The College will continue to submit an annual report to the Tribunal due in December of each calendar year. Future reports will reflect activity that has occurred under the Special Program based on the College's academic year that reflects August 1 to July 31 of each academic cycle.

While the full work of the Measurement Sub-Committee has not been completed, and the initial measurements have not been reviewed by the Aboriginal Advisory Committees, current information regarding the intended measures is attached to this report (Appendix III). The Aboriginal Advisory Committees will be reviewing the measures and providing input in early 2011.

The College will provide a copy of this report to the Aboriginal Advisory Committees at each of the College's campuses, to CUPE and to the Faculty Association.

In conclusion, the past year has been time-consuming with a great deal of negotiating common understanding of a very complex document. Nonetheless, the outcome is very positive because an implementation process was established and restricted and preferred positions identified.

The collaborative communications rollout was critical in demonstrating to the college community that CNC, Aboriginal partners, and the unions are united in supporting this historic policy at the College of New Caledonia.