



British Columbia Human Rights Tribunal

Suite 1170, 605 Robson St.
Vancouver BC V6B 5J3

Phone: (604) 775-2000
Toll Free: 1-888-440-8844
TTY: (604) 775-2021
FAX: (604) 775-2020
Internet: www.bchrt.bc.ca

December 8, 2014

Henry Reiser
President
College of New Caledonia
3330 22nd Avenue
Prince George, BC V2N 1P8

Dear Sirs/Mesdames:

Re: Request for Special Program Approval

On November 3, 2014, the Tribunal received the College of New Caledonia's ("CNC") application for renewal of its Special Program approval pursuant to s. 42(3) of the *Human Rights Code*. CUPE Local 4951 ("CUPE") and the Faculty Association of the College of New Caledonia (the "Faculty Association") are the two unions at CNC. Both unions have actively engaged in the Special Program since its inception in 2009 and have participated in the development of the terms of reference, the criteria for designating positions and promoting the program to their membership.

Background

The Tribunal granted CNC its initial special program approval on December 7, 2009, for a five year period, allowing restricted hiring to Aboriginal applicants for positions in the following categories:

- a. Employees providing direct operational, instructional or administrative service to primarily Aboriginal students (i.e. Aboriginal Academic Advisor, Aboriginal Liaison, Senior Policy Advisor/Manager of Aboriginal Services).
- b. Employees instructing courses whose content is primarily Aboriginal (i.e. Aboriginal Studies courses, Aboriginal Early Childhood Education, College & Career Preparation – Lheidli Project).
- c. Employees offering services and/or programs funded through Aboriginal-specific funding initiatives.

At that time, CNC advised their objective was to have approximately 50 Aboriginal individuals employed in various operational, faculty and administrative positions over a five year period.

In 2007, the Ministry of Advanced Education and Labour Development (“AVED”) announced an Aboriginal Post-Secondary Education Strategy and Action Plan with the goal of closing the socioeconomic gap between Aboriginal and non-Aboriginal British Columbians. The College was one of eleven institutions to receive Aboriginal Service Plan (“ASP”) funding to develop and implement a comprehensive three year plan for Aboriginal education.

The College advises the ASP continued funding from AVED significantly impacted the entire college community, allowing it to work with Aboriginal groups to implement student support services, programs, and language and culture events. The College is in the sixth year of the Aboriginal Service Plan. Aboriginal Advisory/Steering Committees were established at each campus identifying community and Aboriginal learner needs, promoting participation by all communities in CNC cultural and community events. In 2013 the College initiated a significant systemic change with the creation of a Director of Aboriginal Education position to prioritize Aboriginal education for the entire region. AVED adopted an Aboriginal Post-Secondary Education and Training Policy Framework and Action Plan, 2020 Vision for the Future addressing system barriers and institutional change.

CNC reports of the 50 positions originally targeted in 2009, 25 positions still exist, 7 faculty, 16 operational, and 2 administrative positions are filled by employees of Aboriginal ancestry. Of these 25 positions, 8 are on-going, 1 is seasonal, 5 are part-time and 11 are fixed term assignments.

Request for Special Program Approval

CNC is seeking renewal of the existing Special Program approval to continue for an additional five years ensuring continued benefits provided by the 14 currently restricted positions, and the addition of 65 positions for designation by 2019, using the following criteria:

- a) Employees providing direction operations, instructional or administrative service primarily to Aboriginal student (ie Aboriginal academic advisor, Aboriginal Liaison, Senior Advisor/Manager of Aboriginal Services);
- b) Employees instructing courses whose content is primarily Aboriginal (ie Aboriginal studies courses, Aboriginal Early Childhood Education, College & Career Preparation – Lheidli Project);
- c) Employees offering services and/or programs funded through Aboriginal-specific funding initiatives;
- d) Administrators working at campus with significant numbers of Aboriginal learners, or with a significant population of Aboriginal peoples in their campus area.
- e) The candidates for positions covered by this Special Program will be able to provide written proof of Aboriginal ancestry through a nationally or provincially recognized Aboriginal organization. All candidates must fall under the description of Aboriginal as defined in the *Constitution Acts of 1982*, Part II, Section 35(2), as the “Indian, Inuit and Métis peoples of Canada”.

Approval and Terms

I am prepared to grant CNC’s application for a Special Program approval pursuant to s. 42(3) of the *Human Rights Code* allowing it to restrict hiring to Aboriginal applicants for a total of 79 positions, 14 existing positions and 65 new positions, including all criteria listed above, for a five

year period. This will not be considered a contravention of the *Human Rights Code* as long as this Special Program approval remains in full force and effect.

CNC's Special Program is subject to the following terms.

Existing or new positions in the Special Program covered by CUPE's or the Faculty Association's collective agreements will continue to be covered by those collective agreements. Aboriginal heritage as a qualification for the Positions will not impact provisions of the CUPE or Faculty Associations collective agreements, including with respect to seniority, accumulation of work, layoff and bumping.

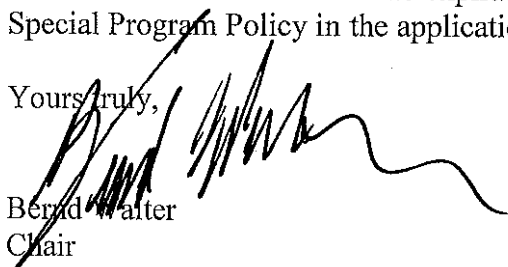
Implementation of the Special Program and the recognition and identification of Aboriginal heritage as valid qualification for the Positions may result in some current employees being unable to access additional work for which they may no longer be considered fully qualified. Implementation of the Special Program will not result in the loss of work for individuals in existing positions, pending the continuation of that work as part of the College's strategic direction and/or funding availability.

The College will provide CUPE and the Faculty Association with as much notice as possible as Special Program positions are identified. At a minimum, ten working days notice will be provided prior to a position being filled.

The College must also provide annual reports to the Tribunal. The College's annual reports to the Tribunal are required to provide information on the various measures, as well as to provide information on the College's efforts to move towards employment equity. The first report is due on December 7, 2015, and thereafter annually for the duration of the Special Program approval.

Please note that the College's Special Program approval will automatically expire on December 7, 2019. If the College intends to apply for a renewal of the Special Program approval it is asked to do so well in advance of its expiration and to address the factors required in the Tribunal's Special Program Policy in the application.

Yours truly,



Bernd Walter
Chair

cc: Lily Bachand, President, CUPE Local 4951
David Rouke, President, Faculty Association of College of New Caledonia